

## SPECIAL COUNCIL MEETING

January 19, 2012

The Special Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, Historic County Building, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Thursday, January 19, 2012 at 1:50 p.m., and the following members answered the call of the roll:

Honorable Tim Bynum (excused at 3:16 p.m.)  
Honorable Dickie Chang  
Honorable KipuKai Kuali'i  
Honorable Nadine K. Nakamura (excused at 4:46 p.m.)  
Honorable Mel Rapozo  
Honorable JoAnn A. Yukimura  
Honorable Jay Furfaro, Council Chair

### APPROVAL OF AGENDA.

Mr. Chang moved for approval of the agenda as circulated, seconded by Mr. Rapozo, and unanimously carried.

### COMMUNICATION:

- C 2012-08      Communication (12/06/2011) from the Council Vice Chair, requesting the presence of Shaylene Iseri-Carvalho, Prosecutor, to provide the Council with an update on the status of the Victim Witness Program and Office of the Prosecuting Attorney as it relates to:
- 1) Case backlog caused by furloughs.
  - 2) Funding – how utilized and whether sufficient to address concerns.
  - 3) Levels of staffing and level of service for the Victim Witness program.
  - 4) Caseload open, closed and pending.

Council Chair Furfaro: I do want to make a note that at the request of Vice-Chair Yukimura, we did in fact indicate to the Prosecutor's Office that they were not necessarily due here until 2 o'clock. I can in fact at this time ask for public testimony first while we use up that time. And I also wanted to recognize Mr. Rapozo. Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you, Mr. Chair. I have a letter, a disclosure letter. I was informed by the County Attorney that there was an inquiry into a possible conflict with myself being present in this session. I was not told who made the inquiry, but apparently someone felt there is a conflict. So I have a disclosure that in fact my company M&P Legal Support Services, we have a contract with the Prosecuting Attorney's Office. The contract that my company has with OPA is funded from the Edward Byrne Memorial Justice Grant Program and it is a 2010 solicitation that was awarded by competitive bid. I've been through Ethics twice on that and twice it was determined to be a valid bid and a valid award. OPA and the Kaua'i Police Department share this grant and the purpose is strictly for law enforcement and prosecution efforts. The Edward Byrne JAG Program does not support or fund any type of program for victims and/or witnesses. And attached to my disclosure letter is a letter from Jamie Chong, the Grant Coordinator for the Prosecuting Attorney's Office, that specifies the contract number, which is 8460,

and that in fact this grant funding source does not fund any part of the victim witness program. So I do not believe I have a conflict and I will not be recusing myself at this time. Thank you.

Council Chair Furfaro: Okay and may I ask since this correspondence is directed to me from you and the other councilmembers, can I assume at this time and I just need an indication from the County Attorney, do in fact have a copy of Mr. Rapozo's piece? Could you please come up?

There being no objection, the rules were suspended.

ALRED B. CASTILLO, JR., County Attorney: Good afternoon, Council Chair, Councilmembers, and yes, I was given a copy of that transmittal letter.

Council Chair Furfaro: Thank you. So on that note, may I ask is there anyone else in the audience...you have a question for the county attorney? Okay, go ahead.

Mr. Kuali'i: It's a separate matter. It's not regarding Mr. Rapozo's.

Council Chair Furfaro: He's there, why don't you go ahead and pose it.

Mr. Kuali'i: First and foremost to you, Mr. Chair, it has just come to me, I don't have anything in writing, but I had disclosed before that I worked for the YWCA and during budget... My understanding of this agenda item—and maybe I'm wrong—is that it's about operations and staffing levels and not necessarily about budget deliberations regarding grants granted by the Office of the Prosecutor to any subcontractor such as the YWCA. During the budget process last year, although I didn't see it as a direct conflict, I just looked at it as a possible and when there was a vote on two specific grants for the Victim Witness Program from the Office of the Prosecutor to the YWCA, I recused myself. If this agenda item will address those same matters, the awarding of grants by the Office of the Prosecuting Attorney to the YWCA, I would probably like to recuse myself again.

Council Chair Furfaro: Okay, well I can provide some time for you to have that discussion with the county attorney. I want to revisit with the county attorney the posting deals with the backlog of cases reflected during the furlough period, funding and how it is effectively used and any concerns that it brings up, levels of staffing which includes the service levels for the Victim Witness Program, and I'm not absolutely sure how the YWCA is involved with that. And then of course the caseload versus closed and pending pieces. I would like to take a recess after I ask for some comments from those in attendance in the audience, but then we'll take a recess and maybe you can have some discussion with Mr. Kuali'i. Yes. You have a question?

Ms. Yukimura: Yes, I just want to say as the one who asked for this presentation, it does involve victim witness grants which...and I wasn't even thinking about it until Councilmember Kuali'i raised it, but in my research, it does involve victim witness grants to the YWCA.

Mr. Castillo: One comment that I do have, the way that the agenda is posted, it talks about funding. So it's funding for the prosecutor's office, which involves a lot of different types of funding. And I look forward to having a discussion with the Councilmember in a private session.

Council Chair Furfaro: We'll give him time after I see if there's anyone else that would like to testify before we move forward. Is there anyone else in the audience that would like to speak on this agenda item? Okay, Mr. Asing.

BILL KAIPO ASING: Good afternoon, Councilmembers.

Council Chair Furfaro: Good afternoon.

Mr. Asing: I am not going to be testifying at this particular time. I understand that my name has been brought up previously regarding this item and so I will be listening first before I make any comments. So I'll be listening and waiting to hear comments made by councilmembers so I can respond. It's just that in fairness to me, I believe that anything being said about me I should be given the opportunity to at least defend myself. I understand that there were some comments that were made in prior meetings, so I'm very concerned about that. I have a time element conflict. I have a previous appointment and so I may not be able to make it, but I hope that in the future if there's anything that is going to be brought up concerning myself that I be given the opportunity to respond. So with that, thank you.

Council Chair Furfaro: Thank you.

Mr. Chang: Could you state your name for the record?

Mr. Asing: Bill Kaipo Asing, Councilmember Chang, thank you.

Council Chair Furfaro: Thank you. Okay, on that note, I am going to take a 10-minute recess here to provide Councilmember Kualii some time with the county attorney. So we are in recess for 10 minutes.

There being no objection, the meeting was recessed at 1:58 p.m.

The meeting was reconvened at 2:11 p.m., and proceeded as follows:

Council Chair Furfaro: We're back from recess and on that note, Mr. Kualii, I'll recognize you on the floor if you've had time to speak with our county attorney.

Mr. Kualii: Thank you, Mr. Chair. Yes, after speaking with the attorney and taking all of his advice into consideration, I am comfortable with remaining a part of this discussion. However, if the discussion does get to grant approvals regarding the Crime Victim Assistance Grant or the Victim Witness Assistance Program Grant, which I don't believe it should. This is about operations and this is not a budget hearing or budget deliberations and the motion at hand is to approve the communication, so it's purely informational. Now at budget time, as I did last year, if we are approving specific grants which go to a program at the YWCA, which I actually have nothing to do with but still I am an employee at the YWCA, at that time I would recuse myself.

Council Chair Furfaro: Okay, so I will so note. If it drifts that way, I may call a quick recess to get an evaluation

Mr. Kualii: Thank you.

Council Chair Furfaro: Members, are we ready? Very good. Okay, we have this communication 2012-08 and on that note I'll suspend the rules. I have a list of five public speakers here and since I started public testimony with Mr. Asing, I might as well again take public testimony first. So let me call the first registered speaker, Mr. Gary Nelson.

There being no objection, the rules were suspended.

Council Chair Furfaro: Good afternoon again young man.

SHAYLENE ISERI-CARVALHO, Prosecuting Attorney: May I address you, Mr. Chair?

Council Chair Furfaro: Surely.

Ms. Iseri-Carvalho: The Office of the Prosecuting Attorney at approximately 1:50 p.m., I believe, had sent an email to the councilmembers regarding a conflict involving Mr. Bynum's participation and I'm not sure if you were able to receive that.

Council Chair Furfaro: I have not, but I can take...as I've heard from Mr. Rapozo and I've heard from Mr. Kualii, I will go downstairs and check my email and consult with the county attorney.

Ms. Iseri-Carvalho: Thank you very much.

Council Chair Furfaro: Thank you. Gary, I'm sorry, we're going to go into another recess.

There being no objection, the meeting was recessed at 2:15 p.m.

The meeting was reconvened at 2:29 p.m., and proceeded as follows:

Council Chair Furfaro: Okay, I'm sorry to indicate to you folks that I want to touch on a few highlights on decisions that I've made based on reading the email that I recently got and so two things are going to happen. First of all I'm going to go into another recess and allow Mr. Bynum an opportunity to talk to the county attorney. So that will be a recess for about 10 minutes. Secondly, I'm going to allow the prosecuting attorney to make her presentation to the question submitted by Councilmember Yukimura first, and then I'll go to the testimony for those of you who have signed up and I hope that hasn't caused any inconvenience for anyone. But BC, as I just summarized, we're going to go into a second recess so I can provide Mr. Bynum some time with the county attorney. So I expect that to be about another 10 minutes. Mr. Bynum, we're going to give you your time.

There being no objection, the meeting was recessed at 2:30 p.m.

The meeting was reconvened at 3:14 p.m., and proceeded as follows:

Council Chair Furfaro: Okay, we are back from our recess and first, like with the other members, Mr. Bynum, I'll give you the floor after you were able to consult, go ahead.

Mr. Bynum: After meeting with my attorney and discussing the allegation that I have a conflict of interest, I feel confident that I can remain and participate in today's meeting. However, to put that into context I want to say that

as I said last week, in May of 2009 the prosecutor was before the council and I wanted to discuss concerns about the funding of the Victim Witness Program, the decision to terminate two county employees, and the impact that it might have on victim services in the county of Kaua'i. That also hopefully is the topic today, but the prosecuting attorney has, in writing, made allegations that I consider unfounded and it is a fact that the prosecuting attorney is prosecuting me for four misdemeanor charges of alleged zoning violations. Even though my attorneys advise me that I can still participate in this meeting, out of an over abundance of caution and because I really don't even want to do this, I'm not going to participate in today's session. However, I don't want that to set a precedent because I believe it is appropriate for the prosecuting attorney, like every other department head in this county, to be held accountable for the choices they make. And when concerns come to us as a council that are unsolicited, I think it's our responsibility to follow through on behalf of the people of the county. But I also believe that my colleagues here don't need me to do that effectively. So having said that, I'm going to exit for the rest of the meeting and I'll see you all tomorrow.

(Mr. Bynum was noted excused at 3:16 p.m.)

Council Chair Furfaro: Okay, again, for the record I wanted to give all councilmembers an opportunity to consult with the county attorney, who is in fact our attorney, and I would like to get to the agenda item now and I believe before I get to the agenda item, I want to say, again, that the posted item on today's agenda is dealing with the prosecutor's case backlog on the Victim Witness Program. It is dealing with the concerns of effective or appropriate levels of staffing for the services of the Victim Witness Program, and it also deals with the caseload on open and pending cases. That is the agenda item and I'm going to charge the county attorney that if we deviate from the posted agenda that please indicate it to me the need for a recess and some consultation with the Council Chair. On that note, we have read the item and I do need a motion to receive and seconded before I call up the prosecutor's office. Do I have a motion to receive?

Mr. Chang moved to receive C 2012-08 for the record, seconded by Ms. Yukimura.

Council Chair Furfaro: Okay, on that note the rules are suspended.

There being no objection, the rules were suspended.

Council Chair Furfaro: Shay, if you don't mind I'm going to relocate to watch your presentation. Are there any other members that want to relocate at this time?

Let's take another recess for the purpose of changing the tape. We won't let any members go outside of this building. It's a quick change.

There being no objection, the meeting was recessed at 3:19 p.m.

The meeting was reconvened at 3:22 p.m., and proceeded as follows:

There being no objection, the rules were suspended.

Ms. Iseri-Carvalho: Good afternoon, Shaylene Iseri-Carvalho, Prosecuting Attorney, along with First Deputy Prosecutor Jake Delaplane. Before I begin, I'd like to just address Mr. Bynum's comments about the communication that we sent to all the councilmembers. I will be making that document public in light of

his allegation that these statements that were made were unfounded. And so we will be redacting the names and releasing this to the public as public testimony. Thank you.

And so we begin with respect to this presentation. I'd like to say back in 2009 we did provide all of this information and it's quite unfortunate that I had to spend the last week and a half in gathering the same information that we had already provided to this entire council and it's contained in all of the budget narratives that we have provided, the numerous times that the VOCA or grant applications came on the agenda, the mayor's submittal of a budget, the supplemental budget, all the financial reports. There was also an audit that was done on every department. All of that information has already been presented to the council and for us to have to respond to this three days before it was requested, while I was in meetings, while we had an officer shooting, while there was a four-man armed robbery, while our murder case was set on the horizon to start for trial, I think, is quite insensitive. And I would ask this council to try to prioritize what is important. We have so many staff members here to testify on this item of information that we have provided year after year. Last year our budget message went on for three hours. So we have justified every expenditure that we have had and to have this kind of thing, we are more than happy to respond, but at least be sensitive to the nature of our time. We already work 60-70 hours a week and to have this imposed on my office and my staff is, again, quite insensitive. And I say this because this happens time and time again. And we would hope that when we are expected to do our homework that the councilmember who makes this request is also one that will exercise due diligence in gathering the information that we have already provided. And so with that, we'll begin with all of the information that we already have provided to you.

JAKE DELAPLANE, First Deputy Prosecuting Attorney: Right, so we'll start with our presentation. Again, my name is Jake Delaplane; I'm the First Deputy Prosecuting Attorney. And basically an overview of what we're going to do today is we're going to talk about current and past caseloads, the efficiencies and improvements that we've made in our office over the time period that the information was requested, a review of the furlough period, which I believe we've already provided that information as well, but we'll review that...not to beat a dead horse, but we'll go over it again, and victim witness services as they currently stand in our office right now. Our office goals, they're clear. We make this presentation every time we give our budget and every time we give our annual report to the mayor, which we did back in September. But we strive to promote the fair, impartial and expeditious pursuit of justice. We partner with law enforcement to ensure the safety of our neighborhoods. We zealously protect the rights of victims and we actively engage the community in awareness and crime prevention efforts.

We're going to start out with our felony case statistics. I think the computer may be moving a little slow here, so bear with me. This data is...it says here at the bottom that the data is compiled from the Judiciary's 2010 Annual Report. That is true with regards to 2010, but we went back to the 2009 report and also to this past year 2011 report to generate these statistics. So, again, we're talking about total caseload here for felonies. So you can see in 2008-2009, we carried a caseload of 1,505 cases. It jumped up to 1,636 cases in 2009-2010 and in 2010-2011, it jumped to 1,954 cases. And again when I say felony cases, for those of you that don't know what a felony case is, those are cases that are in the circuit court in the Fifth Circuit here on Kaua'i and they're punishable by more than one year of imprisonment. So this increase only from 2009-2010 represented a 19% increase in our caseload. So once again our cases are on the rise, our serious cases are on the rise. Of course, all of the more serious violent type cases, murders, robberies, those sorts of things does fall into this category of felonies.

Ms. Iseri-Carvalho: If I could add here, when we talk about the felony cases—and I've brought this up numerous times—when we do statistics we only count the highest charge. And so a person may be charged with Burglary in the First Degree, drug cases, gun cases, assault, all in one incident and that would be counted as one case. So we've had cases where we've charged 200+ counts on white collar cases that would be counted as one even though there were 200 counts of forgeries and thefts. Multiple times we find with our drug cases, there are firearms, additional drug cases. Usually a (inaudible) may include like a traffic for driving without a license or expired safety sticker. The highest count, which would be the drug case, that would be how it's classified and it would be classified, again, only as one incident.

Mr. Delaplane: And again, all this data is available on the Hawai'i State Judiciary website under their reports section and there you can go to the statistical supplement and you can search for the statistical supplements from previous years. So all this data is not compiled from data that we pulled from any of our own databases with regards to the felony case statistics and the other case statistics. They all come straight from the Judiciary.

District Court criminal cases, those we've seen quite an increase in as well. You can see in 2008-2009 we handled 7,766 cases. That jumped to 8,885 cases in 2009-2010, and in this past year we handled 10,684 cases. So just the increase from last year to this year represents an increase of 20%. So again, these are cases in District Court. They're criminal cases. This is not including traffic cases. So these are misdemeanor type criminal cases that would include things like disorderly conduct, planning violations, zoning violations, those sorts of things. And again, all of this data is compiled from the annual report.

Our Juvenile case statistics, we went from 4,101 in 2008-2009 to 4,387 in 2009-2010, and back down actually to 4,099 cases in 2010-2011. And so from 2009-2010 to this year 2010-2011 we had a decrease of 7%. However, what's not represented in this slide and I have this I think in a different presentation that we've given to you before, the jump from 2007-2008 to 2008-2009, so that would be one column over here to the left if it continued out to the left, that increase represented a 148% increase in cases. And so when you look at it over a four-, five-, six-, seven-, or eight-year period, you're talking about huge jumps in numbers from one year to the next. In that year 2007-2008 to 2008-2009 was just an absolutely huge leap that we've not even come close to coming back down to prior levels.

As far as opened, closed and pending cases in circuit court, again this is information that was derived from the Judiciary's website. In 2008-2009 there were 416 opened cases. So what that means, again like Shaylene said earlier, these represent actual cases with people, so the state versus John Doe, even if John Doe has 200 counts of fraud and theft and all those sorts of things, it's only going to count as one case even though there are 200 charges. So this number of 416, that's the actual cases that were filed in the circuit court 2008-2009. Of those where something happened, whether there was a conviction, a dismissal with or without prejudice, an acquittal, any of those sorts of things, 222 of those cases or just not of those cases that were opened, but 222 cases total were closed during that period and there were 1,283 pending. In 2009-2010 there were 361 that were opened, 192 that were closed and 1,444 that were pending and then last year, we saw a fairly significant increase to 543 cases opened. We also had an increase in cases closed to 282 and that left 1,672 felony cases pending in circuit court. I think one thing to note here and you'll see this with later slides is that we've seen increases in case numbers every single year as you saw back when I went over the felony case

statistics we saw an increase of 19%. But when you look at cases that were closed that year, we had an increase of 47%. So from 192 up to 282, that's an increase in the number of closings that's up 47%. So even though we had 19% more cases coming at us, we closed 47% more cases on the year. So those are measures that we look at when we're talking about efficiency and how our office is doing as far as keeping up with this staggering pace of the cases that come in.

In Juvenile Court in 2008-2009, we saw 2,218 case opened. We saw 1,446 cases closed and then leaving 2,655 cases pending. In 2009-2010, we saw 1,732 cases that were opened, 1,729 closed, and 2,658 that were pending. And then last year 1,441 opened, 1,622 closed, and then 2,477 that were pending.

And then again our District Court, which is that misdemeanor level, not including traffic, we saw 2,825 opened in 2008-2009, 1,417 closed and 6,349 pending. In 2009-2010 we saw 2,559 opened, 1,433 closed, and 7,452 pending. Last year 3,233 opened, 1,799 closed, and 8,885 pending. So again, just like I mentioned with the felony court statistics, we saw a significant increase in the number of cases closed even though we had quite a few more opened as well as quite a few more that were in the total caseload that was floating in the District Court. So again, even though we are operating under fairly stressful circumstances in that we have more cases coming at us and that the severity of those cases is increased, we are maintaining efficiency and actually doing better on the year than we did last year.

Ms. Iseri-Carvalho: We would also add that a lot of the cases that we see that are pending is because we do have only one judge that is handling all the criminal cases in District Court, Family Court and Juvenile Court. And prior to that we had two, but a judge retired, and the new judge now is handling only civil cases. So the District Court judge is handling three case loads, which does add to the delay in the cases being disposed of, which can account for some of those numbers left pending.

Mr. Delaplane: So when you look at a five-year run of what our case statistics were, and we're talking total caseload. So across the board, what were we handling through our office, and as you can see from 2006 all the way to 2010-2011, we jumped from this number here, 15,955 and now we're up to \$26,599. So our total caseloads have increased dramatically over this time period and we have had increase in staff levels, so we have been able to not only keep up with this, but we were more efficient. We're not exactly where we'd like to be as far as efficiency, there's always room to improve, but we certainly have been able to maintain a pace that at least is reasonable as far as the case levels. But a lot of that has to do with the dedication and the amount of hours that both our attorneys and staff spend working on cases. I think that if you took a poll of all of our attorneys, they're averaging anywhere definitely over 50 hours a week all the way up to 70 hours a week. And that fluctuates depending on the week. Some weeks are harder than others, but typically we don't do a 40-hour workweek. I mentioned this back when we had the meeting on the furloughs and it does take that extra bit of effort in order to keep up. And our attorneys aren't the only ones to, I guess, to thank and to recognize for keeping up this sort of hectic and very stressful pace of work, but our staff, many of whom are present today, do an amazing job as far as processing cases, contacting victims, making sure that everything is done in the correct way so that the public is served and so that justice is served in every single case.

So I mentioned furloughs just a minute ago and since it was in the communication, I wanted to address it today, but I'm not going to spend too much time on it. As was in our communication back in, I believe it was March of last



year...no, it was actually in December of 2010, I believe, is when we originally started talking about this issue of the furloughs and what we were going to do and how we believed the furloughs could be ended responsibly with regards to the Office of the Prosecuting Attorney, and so what we brought forth to the council was the scenario and again we used these numbers as our best objective measures. There were other measures that we could have used, but I think that this one was the most descriptive. But basically when we had a cut in staffing based on the furloughs, so that we had people out on furloughs at least a day a week, we saw a significant, significant increase in the number of cases that were pending review. And what that is is those are cases that have been referred to our office by any one of the law enforcement agencies that refer cases to our office. So it could be federal, it could be planning or zoning violations, or it could be something from KPD. But that number represents how many cases that we have that are awaiting charging so that...or awaiting a charging decision. Some of those cases may in the end, depending on the facts in the case, not be charged by our office. But before the furlough and I think this represents a fairly average number when we looked at our caseload over time, we had 366 cases that were pending review at a given point before the furloughs. And I don't have the date in front of me, but that was some time in December of 2010 that we did that measure. And so from that 366 number we saw during that furlough period when we took a snapshot of our cases pending review, we saw that the number pending review had jumped to 604. So you're talking about it almost doubling, the cases pending review. And again, that's because we were not having the staffing levels that we had in the past and so we were not able to expeditiously process all of the cases as we had before furloughs. So when we saw this number, it was very disturbing and we sat down and we looked at what we had and we tried to develop a plan of how are we going to get back down from this number because over just a six-month period we almost doubled the amount of cases that were pending review and we needed to get this number under control. So we came to the council, we asked for money to put into our budget, which was essentially asking for the money that was taken away from us from furloughs. So the amount that we asked for was proportional to the staffing hours that were lost because of furloughs and we used that to pay our employees overtime to come in on nights, work late nights and weekends to get this number under control and get the cases pending review back down to a reasonable level. And so as of June 30, 2011 our post-furlough cases pending review were at 162. So our strategy, the money that was given to us by the council or that was authorized by the council was a resounding success. We went from a position where we had almost doubled our cases pending review and we went down to a level that was even better than we were before we started out. So again, that's thanks to a hard working staff that came in on weekends, holidays and nights and worked long hours to try to get that level under control. That represents a 73% decrease in the amount of cases that were pending review. So I think that's pretty phenomenal and our staff and attorneys definitely deserve accolades for that because again, they went above and beyond the call of duty to get that done.

I think we're going slow again here on the slides. Can we have a moment to take a look and then see where we're at?

Council Chair Furfaro: Yes, you take a look on the down arrow.

Mr. Delaplane: (Inaudible) I think that I was using a newer version of PowerPoint than the Council has available, so the charts that were in the next few slides, and I do want to show those so I'm going to be requesting just a quick recess so we can hook up my computer.

Council Chair Furfaro: JoAnn, will you call for a quick recess, please.

Ms. Yukimura: Sure (inaudible).

There being no objection, the meeting was recessed at 3:44 p.m.

The meeting was reconvened at 3:46 p.m., and proceeded as follows:

There being no objection, the rules were suspended.

Mr. Delaplane: The next few slides, we are going to go over our conviction statistics and so actually you'll be able to see what our performance was in court with relation to the cases that we processed. These statistics are from the 2010 year; they will likely be changing when we present our budget presentation to the council, as we didn't have enough time to go through and calculate every single statistic for the purposes of this presentation. Since we talked about cases in the 2009-2010 years, we can sort of go ahead and give you a breakdown. In 2010 with regard to property crimes, we had 72% of individuals come in and plead guilty or no contest. We had 2% of the property crime cases that were guilty by trial, 1% were acquitted, only 1% dismissed with prejudice, and then we had a few cases here, as far as 24% that were dismissed without prejudice. Just to give you an idea of what I mean by property crimes, these are felony property crimes that were processed in the Circuit Court of the Fifth Circuit. So these are, again, cases that are punishable by more than one year in jail and are typically burglaries, those types of property crimes, credit card theft, fraud, forgeries. All those types of crimes are incorporated in this case statistic. So again, with this measure we have a conviction rate of 99%.

Methamphetamine cases, again these are all going to be felony level drug offenses that involve possession or distribution of methamphetamine. In 2010 we had 82% plead guilty, 1% guilty by trial, 2% acquitted, none dismissed with prejudice, and then we had 15% that were dismissed without prejudice. And again, you see that yellow pie there that represents dismissed without prejudice. What that means is that the case was dismissed and can be recharged by the prosecution, and oftentimes there are a number of reasons why that would happen and the State would recharge. So again, we don't include that in the calculation because it can be recharged and it's not a final disposition on the case, so again a 98% conviction rate on meth cases that were closed in 2010.

Other drug crime statistics, this is going to include prescription drug crimes, any kind of non-methamphetamine illegal drug case, marijuana, heroin, cocaine, those sorts of things. In 2010 we had 77% plead guilty, no trials, so there were no acquittals by trial, none were dismissed with prejudice, and we had 23% that were dismissed without prejudice, and so that conviction rate is 100% there.

As far as career criminals go, these are people that we have identified. They fit a number of 12 factors that are outlined by the HRS that sort of define what a career criminal is. That includes people that are on probation or on parole when they commit their new offense. It can also be someone who has engaged in a...you can call it a lifestyle or a pattern of criminal behavior, so someone that's just a continuous criminal and is a continuous problem in the community. And for our career criminal cases, cases closed in 2010, we had 78% come in and plead guilty, we had 3% guilty by trial, no acquittals, 3% were dismissed with prejudice, and 16% were dismissed without prejudice. So that gave us a conviction rate of 97%.

I'd like to take just a minute to recognize one of our deputies, Deputy Prosecuting Attorney John Murphy. I believe he has had the longest streak in our office as far as convictions with six straight convictions in felony cases this past

year. And John Murphy is our career criminal prosecutor, so he's handling the cases that are (1) they're very serious, but (2) they represent cases that are quite important to the community because they focus on people that are just absolutely repeat offenders that are the kinds of people that do need to, on the whole, normally be incarcerated after being convicted. So I wanted to mention that quickly.

Ms. Iseri-Carvalho: And John Murphy has an extensive amount of litigation experience. He's worked at the County Attorney's Office, the Attorney General's Office, the Prosecuting Attorney's. He has also been a defense attorney and has been practicing criminal law for over 30 years and it clearly shows in his success. What Jake was talking about was about going to jury trials when he had mentioned about his straight streak of six or seven jury trials in a row.

Mr. Delaplane: Our sexual assault statistics, in 2010 we had 76% plead guilty, we had 6% guilty by trial, we had 6% acquittal by trial, none dismissed with prejudice, and 12% dismissed without prejudice, leaving us with a conviction rate of 93%. And I believe this is a very good percentage on the whole when you look at national conviction rates as far as sexual assaults go. These are typically some of the hardest cases to try because you have very few witnesses oftentimes and the stakes are very high. No one wants to register as a sex offender, so you don't have a lot of people come in and just willingly plead guilty right off the top. These are usually very highly contested cases and our attorney that handles those for the most part Deputy Prosecuting Attorney Lisa Arin does a fantastic job of processing those cases through.

Our domestic violence statistics, cases closed, it says 2009, but this is actually a 2010 number, 81% pled guilty, we had 3% that were guilty by trial, 1% that were acquitted, 1% that were dismissed with prejudice, and 14% that were dismissed without prejudice, leaving with a conviction rate of 98%.

So that sort of goes over the caseload summary.

I'm going to switch gears, talking about our victim witness program. And I wanted to start out by...because we're going to talk a lot about the kinds of services that are provided by our victim witness counselors. We currently have three victim witness counselors employed by our office and I know that one of the questions was what the salaries were for that department. So here they are. We have one that's at \$57,024, a yearly salary, another one that is \$73,044, and another that is at \$60,024. So this is what the county is paying for as far as our victim witness counselors go in salaries.

The next few slides are going to go over our victim services and these are services that our victim witness counselors keep track of. Every time they take an action on a case, they log it and they classify it. So the actual statistics that they keep, it's a self-reporting method, and again they keep extensive records. But again, this is only dealing with the victim witness counselors and the victim witness clerk interactions with victims and witnesses. So from July 1, 2008 to June 30, 2009 we had 834 total victims served, 422 of those cases involved crimes against persons, 261 were property crimes, and 151 involved both. In 2009-2010, again three victim witness counselors, one victim witness clerk, we had 714 total victims served, 417 of those served involved crimes against persons, 221 involved property crimes, and 76 involved both types. In 2010-2011, I have here that there were three victim witness counselors. For 78 days, we did have four victim witness counselors, which we will go into later. We had one victim witness clerk. And from July 1, 2010 to June 30, 2011, we had again 714 victims served (that's not a typo, we just

happened to serve the exact same number of victims two years in a row), 337 of those involved crimes against persons, 318 involved property crimes, and 59 involved both.

The next slides give a breakdown of actual victim services. So these are broken down by type. Again, this is self-reporting method, so you see lots of numbers here and they add up to a lot more than 834 or whatever the number was for 2008-2009 and the reason for that is that one victim can go across multiple categories and they often do. So as far as services that were provided to victims during this time period, we had 829 that were education and information, 735 generally classified as advocacy, 624 generally classified as counseling, 311 classified as case preparation, 251 crime victim compensation, 196 were assisted with court accompaniment, 99 were given referrals, 25 were given transportation services, 17 outreach and 0 for shelter. In 2009-2010, we had 707 receive education and information, 642 advocacy, 581 counseling, 338 case preparation, 174 crime victim compensation, 172 court accompaniment, 68 referrals, 16 transportation, 2 outreach, and 1 shelter. In 2010-2011, there were 706 education and information, 671 advocacy, 565 counseling, 300 case preparation, 139 crime victims compensation, 167 court accompaniment, 32 referrals, 19 transportation, 3 outreach and 0 shelter. That's a summary of the statistics that were entered by our victim witness counselors over the 2008-2009 to the 2010-2011 period.

Ms. Iseri-Carvalho: Also not only the victim witness counselors, but the information is also provided to the victim witness clerk, who then does the entry into the system. These numbers are provided to the various grantors that provide funding for partial services involving victims and witnesses.

Mr. Delaplane: Right and so these numbers aren't new numbers. They appear in our yearly reports to VOCA and also a lot of these have appeared over the years in our budget presentations and also our annual reports to the mayor. So all of this information is readily available out there. So again, as Shaylene clarified, there are certain stats that are entered into the system as far as case management for victim witness counselors and victim witness clerks. What is not reflected in those numbers, so you saw 834 and then 714 for the two following years, what's not reflected in those numbers are the victims and witnesses that received those type of services directly from both attorneys and non-victim witness staff that are employed by the office. And so essentially what you have are additional services that are provided without the victim witness counselors or other victim witness staff acting as a middleman between the victim and witness, and the attorney.

I wanted to talk about this prosecution model that we have because it's something that Shaylene implemented when she did come into office in 2008. And essentially what it is is prosecutors are assigned to cases, not court. So we don't just have somebody that's assigned to District Court, assigned to courtroom 4, which is a felony court and courtroom 6, which is the other felony court. We assign prosecutors by case type. So they're all specialized in certain areas. Each prosecutor is assigned to a very certain, very specific type of case and they handle those cases from intake when we get them from whatever reporting agency, whether it's the Kaua'i Police Department or any of the other agencies that we deal with, and they take them all the way to trial if they go to trial. And this is a model of prosecution that's utilized nationwide. It's advocated by the National District Attorneys Association. A lot of prosecutors' offices utilize this model because it results in continuity and increased proficiency in a particular area of prosecution. As many of you know, I'll give the example of OUVIIs or commonly known as DUIs.

Those are very, very technical cases that involve a very specific type of knowledge on the part of a prosecutor because there are many burdens that that prosecutor has to meet at every step of the proof process at trial and a lot of them are very hypertechnical. It's not something that you can just pick up in a day and go in and try just because you have your bar license. It does take quite a bit of training. It takes quite a bit of expertise. Sexual assaults are another area that really require a lot of focus and expertise because you're dealing with not only victims that have been through an extremely traumatic experience, so you have to have the level of knowledge and the skills and training to deal with those victims and to discuss the case with those victims and be able to question them in a way that elicits the testimony that needs to come out at trial in order for the State to meet its burden to prove the case beyond a reasonable doubt. It also includes things like DNA evidence, which again is a very, very technical area of law. It's something that you can't master overnight. It takes training, experience to do that. So instead of having general prosecutors that just generally handle whatever comes at them in a day, we have each of our attorneys that are specialized in a specific area. They receive specific training and because they handle so many of those types of cases, they are ready and able to handle whatever comes at them as far as the case goes, whether it's going to trial or whether it's going through motion hearings.

So as part of this vertical prosecution model, as you could expect, there is quite a bit of direct interaction that goes on between our attorneys and the victims and witnesses in their cases. It is absolutely vital that this direct contact happen throughout the process, from the intake process all the way through to trial in order to achieve success in the case and to achieve justice. What we see is that most of the victims and witnesses that call our office, they tend to immediately ask for an attorney and oftentimes they don't just ask for an attorney, they ask for, "I want to speak to Shaylene Iseri-Carvalho, the prosecutor." Obviously Shaylene can't spend all day on the phone talking to every single victim, although she does talk to quite a few victims and witnesses that call and I do too, as well as victims and witnesses that just come into the office and ask to speak to someone. We're always ready and willing to speak to anyone who comes into our office. I believe Ken Taylor is here and he could probably speak to that fact as well. Ken Taylor came in and talked to me over the Christmas break and we had just a few staff in the office at that time, but he wanted to speak to me about a case that he had some information on and Ken will tell you I came right out of the office and made the time to speak to him. And it would be...ultimately if that case went to trial, it would be a misdemeanor case, so we're not talking about something that's extremely high level, but we make it a point and it is our policy at the office that if you are available or even remotely available to talk to a victim or a witness that either calls or has a concern, or is going to come by the office and inquire as to a case, a pending case, or a case that's going to come to our office, we make the time to do that. We have that personal contact because again, we achieve better results when we have direct contact with our victims and witnesses. So again, all of our attorneys take a proactive approach in communicating directly with victims and witnesses. They build that rapport, they build that trust and again, we have more suitable outcomes. I didn't want to say more favorable outcomes because again, we're not in the business of reaching outcomes that make everyone happy. In fact, we don't make everyone happy all the time and that's not our job to make everyone happy all the time. We're here to seek justice and we're required by law to seek justice and sometimes that takes different forms. But what we can say is that in every case we absolutely strive to serve our victims to the highest degree possible and also to have the most interaction that we can with them and to keep them apprised of their case every step of the way.

Before I sort of end this part of our presentation, I wanted to mention too I talked a lot about the direct attorney and victim and witness interaction, but our staff members, both our victim witness counselors, but also our...not our victim witness counselors, so our non-attorney staff that include legal clerks, law office assistants and even our receptionist, they all have this sort of direct contact, direct communication with both victims and witnesses in cases because as any of these staff members will tell you, during any given day, our office fields hundreds of calls and they just absolutely flow into our office. And unlike a lot of other county agencies, when you call the Office of the Prosecuting Attorney, you get a live body on the phone and that's something that we take great pride in. We actually require that the phone, if the receptionist doesn't pick up, it automatically rings to someone else. If they don't pick up, it starts ringing to other people until someone is going to pick up that phone. So if you call our office, someone absolutely will answer the phone, you will talk to a live body and that person will do the best they can to help you and answer your questions. If they don't have the information, they're going to find out who in our office does have the information and that person's going to get back to you. But I want to use Renie Judd, who's our supervising legal clerk, and she's actually here today, as an example, to sort of illustrate the point that I'm trying to make here. On any given day we have numerous amounts of victims and witnesses call and even defendants will call and a lot of them aren't represented by an attorney. Of course, we don't speak to defendants that are represented by an attorney, but our pro se defendants that aren't represented call because no one else will answer their question. They may call the court and get the cold shoulder from the court. They may call KPD and get the cold shoulder from them. So oftentimes we find that we're the last resort. "I'm calling your office because I don't know where else to go, but I'm really concerned about this issue and I'd like to know where we're at in this process with the case that I'm involved in." And as our receptionist will tell you, as anybody will tell you that answers the phone at our office, the number one person that they're going to go to, it's not going to be me, it's not going to be Shaylene, it's not going to be one of our victim witness counselors, it's going to be our supervising legal clerk, Renie Judd because, again, she handles a lot of it, most of the day-to-day operations as far as processing the cases through, making sure that the cases get charged, making sure that the cases that are up for grand jury are set, everybody knows what time they're set for, and all of that. She also does the majority of the case research and I'm not talking about legal research on substantive issues of law. I'm talking about taking a file, taking a defendant's name, taking a report number and determining where that case is in the judicial process: whether it's been charged and pending trial, whether it's currently with an attorney, whether it's already been processed, whether there's been an adjudication and now there's some sort of appeal or forfeiture proceeding. Renie Judd is usually the centralized hub for all those types of questions and again if it's a legal question, she'll go to an attorney. If it's a substantive issue of law, she'll go to an attorney or she'll refer it to either me or Shay, but on the whole, Renie Judd does quite a bit of victim interaction as far as letting them know what the status of their case is and what they can expect and who they can expect to hear from and when. So again, I mentioned her specifically because I just wanted to give her very specific accolades because I work with her on a daily basis in fielding these phone calls and in trying to serve the community in the best way possible. So with that, I believe that concludes this part of our presentation. I don't know if Shaylene had anything to add.

Ms. Iseri-Carvalho: I just wanted to clarify. I know Jake had mentioned about some of the victims calling and they appear to have this cold shoulder attitude when they call the police department, etc. A lot of times the questions they're asking are not what the police department can answer. And so what is being perceived by them as being neglected is something that they are

actually doing their job on and trying to refer them to an agency like ours. The court refers a lot of people and phone calls to our office. The public defenders' office refers a lot of phone calls to our office. The mayor's office refers a lot of phone calls to our office. And so we field a lot of...whether they're victims, whether they're persons who want to report crimes, whether they are witnesses to cases, a lot of these phone calls are fielded to our office from the various agencies and a lot of times most of those calls aren't something within our expertise. We try to help them the best that we can. We do provide as much information as we can especially with the role of the Internet, and we've been here and showing this council the various resources that are available for the community as far as looking up sex offenders, looking up court cases, looking up traffic cases, abstracts, and all of that. All of that information is available to the public. And so we do a lot of informational kinds of presentations to various agencies to inform them that they have these services that are available. There is a service that allows you to determine whether or not a person is still in custody and where that person is in custody or what their status of release is. So there is a lot of information that is available that we provide for victims and witnesses, not only the attorneys, not only the victim witness counselors, our legal staff and even down to our receptionist.

We have a very open door policy. Everyone is expected to keep their door open so that everyone is available to answer whatever questions any person that calls in has. All the attorneys have to be available when they're back at the office from court. They get interruptions a lot of the times as well as the clerks and as well as the victim witness counselors. We try to provide, as much as possible, a family environment because the people that we work with, we spend more time with the people that we work with than people that are related to us back in our own houses because we have attorneys who are working 50-70 hours. We have clerks a lot of times that come in and put in a lot of extra work because they care about the community and have pride and integrity in the work that they do. And we hope that this council will find that after this presentation that a lot of the work that they do, a lot of it goes unrecognized because they're busy most of the time and they don't expect to get any kind of pat on the back. But clearly this community, based on the statistics and those are database statistics that are provided to the Judiciary to the JAG Office to the Attorney General's Office, these statistics are being audited and tracked from the time I came into office are the ones that I can attest to. Given these numbers, clearly there should not be a single person who is present in this room that would not want to stand up and applaud the staff that we have at our office. And with that I thank all of you. Thank you, Ms. Yukimura, for having us provide this testimony on such short notice and I hope all the information that we've provided was sufficient and we'll definitely, because we actually had invaded into the presentation that was really set for the budget that we do in March because we are set to see the Mayor's Office at the end of January to go over the budget. Thank you, Mr. Chair, it's 4:15 p.m. I believe Councilmember Yukimura had made a specific request for Diana Gausepohl-White to be present. In light of the fact that it's 4:15 p.m. and it's near the end of the day, we would ask to hold your questions, have the testimony that you had wanted from Ms. Gausepohl-White, and then we'll come back in light of the lateness of the afternoon.

Council Chair Furfaro: Okay, is she present.

Ms. Yukimura: Yes, she is, but I would like to ask some questions first.

Council Chair Furfaro: Well, I actually want to make some statements before we get into your questions and I want to honor the prosecutor's sensitivity to time, so then we'll go right to you after that. (Inaudible.)

Ms. Yukimura: We asked that she be present for questions and answers actually.

Council Chair Furfaro: Yes, I understand that, to the Q&A, but I wasn't finished with the prosecutor's office and they left. I would like you to come up to the chair, please, okay?

Ms. Iseri-Carvalho: We're here.

Council Chair Furfaro: So I'll remind myself that I am the chairman and I will control the flow of this meeting. I want to thank you for your presentation. I do want to caution us on a couple items. There is never, under the council rules, an issue that we present to any department that is intended to cause a conflict or a work challenge because of time and the need to have personnel here. So I just want to remind us again that when we send over correspondence, it's because it is something that we feel that we need to get an update on and it is only beneficial to us to have good information to make those decisions. And I want to say at the same time, as the Council Chair, and I've conveyed this to whether it's the treasury or the engineering department and so forth, we understand that we cause sometimes conflict with schedules, but I think it's also important for us to understand that this is the legislative body and the charter provides us that opportunity, especially since we approve the budgets for all departments. So I do want to make that very, very clear.

I also want to stick to the subject matters that are posted on the agenda and for those of you that gave testimony, I am going to be very restrictive when it comes to anything that deals with your personal opinions about performance. That clearly is left in the prosecutor's office as the chief prosecutor. But also I want to say that this council is not the grievance body if there are grievances and I need to say that today. There is Mr. Guyot in the back of the room, who's available. There are members here from HGEA and so forth that are in this room, and the matters that are posted here are about the impacts caused by the furloughs, the items that deal with future funding of items, the level of the staffing, and the levels, in particular, for victim witness. We also wanted to know about the caseload. I, myself, cannot interpret the mechanisms that have been presented because I don't know what level of what cases actually require victim witness support. So it was a pretty full presentation, but I do want to say again that this council does reserve for all departments the ability to review items for which we propose budgets. I want to thank you again for your presentation and I do, for the effort of time, would like to ask that that one requested person be available to Vice-Chair Yukimura at this time. JoAnn, go right ahead, you wanted to have...

Ms. Yukimura: All right. I'd like to ask Ms. Diana Gausepohl-White to come forward.

DIANA GAUSEPOHL-WHITE, Victim Witness Counselor: Good afternoon.

Council Chair Furfaro: Good afternoon. Vice-Chair, you have the floor.

Ms. Yukimura: Yes, thank you. Thank you for being here and I appreciate the prosecutor allowing you to join the discussion about victim witness. You've been in the program for how long now?

Ms. Gausepohl-White: In May it'll be 20 years.



Ms. Yukimura: So you have...

Mr. Chang: Diana, you need to state your name for the record.

Ms. Gausepohl-White: Diana Gausepohl-White.

Ms. Yukimura: Thank you. So you've actually seen maybe even the origins of the victim witness program and how it has evolved over the years?

Ms. Gausepohl-White: I believe the program was actually established with Regina Jimenez. So it was in place prior to me coming onboard.

Ms. Yukimura: So maybe you could educate all of us in terms of the main mission of the victim witness program?

Ms. Gausepohl-White: The main mission is to serve as a liaison between the victim and the prosecutor. A lot of what I heard today is absolutely accurate. Clerks and attorneys do speak with victims and witnesses, but we each have our own role to play. We each have our own focus. Their concern is regarding the prosecution in the case. We are concerned about their emotional, social, physical, and financial needs. We each have our own skillset and that's basically our mission, it's to make sure that victims get what they deserve and what they're entitled to and what they need.

Ms. Yukimura: So what is the role that victim witness counselors play in the context of serving victim witnesses?

Ms. Gausepohl-White: Well, the assignments are done through the administration. So we're informed when we get assigned a case. The prosecutor communicates whatever is needed on the case. That's been a change than in prior administrations when we would do outreach to victims. So basically we do what it is that they need us to do. A lot of my time is spent contacting witnesses for availability for grand jury, prelims, trials, motions to suppress. It's very oriented towards the legal aspect of dealing with victims and witnesses.

Ms. Yukimura: So that is the current use of victim witness counselors?

Ms. Gausepohl-White: I can only speak for myself. There are two others. I can only speak for myself.

Ms. Yukimura: In terms of the dictates or the parameters that have been established by this present prosecutor, it's been primarily to service the witness aspect of the victim witness program?

Ms. Gausepohl-White: Well, for me. We each have our own caseload and cases do get divvied up differently. So for my particular caseload and a lot of that is attached to our funding and what the...the moneys have restrictions on the kinds of cases that one should be providing. So for me personally, a lot of my cases are witness related because they are firearms, drugs cases. The victim is the State. But the people I deal with are witnesses, Kaua'i PD police officers, DLNR, licensing. I mean they are systems types of witnesses.

Ms. Yukimura: So I mean that's, I guess, one of the questions, who is a victim? And I presume that's defined in your victim witness grant moneys and so forth, the guidelines?

Ms. Gausepohl-White: I can't speak to the budget because I'm no longer involved in that process. But victims are anyone who's harmed. You can have a defendant who's unknown. We have sexual assault victims who didn't see their attacker, so there's no prosecution. There's nobody to prosecute. We don't know who the person is or the defendant is dead, died in the traffic collision injuring someone else. So we have a live victim with injuries and a deceased defendant. Those victims are victims even though we aren't going to prosecute anyone.

Ms. Yukimura: Now is the victim witness division servicing all those victims right now?

Ms. Gausepohl-White: Again, I'd have to refer you back to my department head because I am no longer involved in the case assignments. I can tell you only from my caseload.

Ms. Yukimura: Okay, so you folks don't have like weekly division meetings that...where you all get the big picture of the victim witness office?

Ms. Gausepohl-White: Absolutely not.

Ms. Yukimura: So I have a...I guess it's April 6, 2009 minutes from a meeting where there was a presentation and there's a discussion that the victim witness services will only go to ongoing cases, which means if there are no charges and there is no...well, that's what I'm assuming it means. Is that not the policy of the office?

Ms. Gausepohl-White: I can't speak to that. I get cases assigned to me through a process. If you want me to describe that process I can, but...

Ms. Yukimura: Yes, please describe the process.

Mr. Rapozo: (Inaudible) the prosecutor, Mr. Chair.

Ms. Yukimura: Well, that's what I thought too, but...

Council Chair Furfaro: We're going to recess.

There being no objection, the meeting was recessed at 4:24 p.m.

The meeting was reconvened at 4:30 p.m., and proceeded as follows:

Council Chair Furfaro: Okay, we're back and a couple points I want to make for everyone here. As I mentioned earlier, personnel matters don't necessarily belong in the front of this council body. But as we started this meeting, if you recall, I had every councilmember who may have had a conflict, I recessed for them to have time with the county attorney, for them to make their individual decisions whether they wanted to recuse themselves from this meeting and so forth, as a courtesy. But as the Chairman of the Council, I am in fact required to manage the decorum of the action of the meeting and I don't want to see any disturbances from the audience and so forth when I make a decision about issues that are being focused on this agenda item. I gave the prosecutor's office some broad areas that they could testify on. In fact they brought up information from 2008 and so forth and yet at the same time, I feel if we have people that are going to testify for that period, I should give them the same courtesies as to Vice-Chair Yukimura to ask questions directed at operational issues. But at the end of the day, we're not made

to be the judge and jury about how the prosecutor runs her office. The judge on that is the electorate. We are here to basically understand the way things are said and done in various departments. So Vice-Chair Yukimura, I will allow...since I allowed the testimony from the Prosecutor's Office to cover a broad spectrum, I will allow you to continue.

Ms. Yukimura: Thank you. So we were talking about the process by which cases are determined or assigned and you were going to describe that, I think?

Ms. Gausepohl-White: Okay, thank you. The cases come in...victim witness really has nothing to do with the incoming cases, the processing of those, inputting it into the Hoku System or forwarding it on to the administration for review. My understanding is that the department head screens the cases, determines which attorney, which then dictates which victim witness advocate the case will go to. So I normally get cases through an email from Renie Judd with the prosecutor or attorney's number from Hoku saying that this case is assigned to you. I also have been getting a lot of District Court requests and that usually gets done directly from the attorney. They either come and fill out a victim witness request form or there's a note in the case file or they just simply say, "I need this." So that's how I normally get my cases assigned to me.

Ms. Yukimura: So basically and we don't know need to know a lot of details, but basically the cases are assigned to attorneys and then the attorneys come to you asking for victim witness help.

Ms. Gausepohl-White: The District and Juvenile Court cases that get assigned to me are upon request. So they don't...

Ms. Yukimura: Request of?

Ms. Gausepohl-White: Of services.

Ms. Yukimura: From the outside of the office.

Ms. Gausepohl-White: From the attorneys. I mean there's enough work in the office to fully fund, in my opinion, a victim witness counselor for each one of those courts, for District Court alone, for Juvenile Court alone. The way it's organized right now is that every felony case has a victim witness counselor assigned. So that doesn't leave much time to do other types of cases, but upon request, District Court and Juvenile Court cases come to me and that's almost always at the...that's almost always given to me by the attorney because the attorney needs something. "Please contact this victim to see if they're available." "Please contact this victim or witness to inform them that the case is continued." "Please contact them and say that there was a change of plea and the defendant was sentenced and this is what the sentencing was." Those kinds of things from those two courts. And then I also handle jury demands. So I don't normally do anything on those kind of cases until we're prepping for trial.

Ms. Yukimura: So I'm glad to hear that there's a victim witness assistant assigned to every felony case because one could imagine that the trauma or the problem for a victim would be fairly severe. Are the counselors able to service the needs, both the emotional and personal needs of the victims as well as the need of the prosecutor's office to have witnesses supported?

Ms. Gausepohl-White: Again, I can only speak for myself and for my caseload, I feel like there's a big population of victims out there that are not being served. I think that if you were to talk to a victim of an Assault III or leash law and dangerous dog, those are very difficult cases. I mean people, their beloved pet is killed or they're attacked and they have severe injuries. Because it's not a felony case, it's handled through the District Court. So unless I'm assigned that case because of a particular reason, like they want to know what the restitution amount is so they know...it would help further their plea negotiation, I don't know that they exist. I agree that felony cases are very serious and they need to be monitored and coordinated as far as witness coordination. But I think if you were to ask the vice officers what purpose a counselor functions for them, it's mostly to be informed of what is going on with the case. We need you, can you appear, that's the extent, so I'm not doing a lot of counseling with my caseload. That might be very different for Jennifer Arashiro and Marla Torres-Lam because of the types of cases that they handle. But I want to be really clear. I'm not here to try to justify my position, my co-workers or the program. I'm here to answer any questions that you may have and as far as the staffing is concerned and the level of services, I can only speak for myself.

Ms. Yukimura: Okay, so I understand, though, that the victim witness program almost by definition because some funds come through the Attorney General or through some State office is tied into a network of victim witness services?

Ms. Gausepohl-White: Again, I haven't had anything to do with budgets, contracts, or monitoring the sub-grantees during this current administration. But when I did do that, there are three funding sources. One is the county, the other is the state, which is ever decreasing, and then VOCA, which is federal moneys which is as far as to the best of my knowledge we've never taken a cut. In fact there has been stimulus money that was available. There have been more funds available under this current president. The VOCA type of cases, there has been a certain percentage that goes to serving the underserved population, but it's not restricted. I mean, it's not like a VOCA funded counselor can't do a non-VOCA kind of case, but you have to be real clear that the percentage of time is meeting the contract requirements.

Ms. Yukimura: Okay.

Council Chair Furfaro: Vice-Chair, we have a note circulating that Councilmember Nakamura has to leave and I'm wondering if you would yield the floor because she's going to leave in about 10 minutes. You have no questions? Fine. You have the floor.

Ms. Yukimura: Okay, thank you. So what do you understand to be the mission of the victim witness program in the prosecutor's office?

Ms. Gausepohl-White: Well, my mission is to serve any and all victims and/or witnesses according to 801D, which is the statute that asserts certain types of rights that are theirs. Of course we're all invested in having a successful prosecution because it's not just the victim, it's the community. I mean we have victims who are visitors that don't want to come back here and participate in the criminal prosecution. That's unfortunate, but obviously that's understandable. But the defendants remain this community's problem. So I'm dedicated to seeking justice, but my focus and the reason for our existence is not prosecution driven. It's victim driven.

Ms. Yukimura: I'd like to yield for other questions, if any, and otherwise, I may want to ask questions after we talk to the prosecutor.

Council Chair Furfaro: Okay, well I want to say I don't think there are any more questions of you. I want to let you know in my 38 years in the visitor industry, I've always had a focus very much along the lines of what you described as the mission, and in fact many of the counselors actually would call my office when they were looking for accommodations...

Ms. Gausepohl-White: Yes.

Council Chair Furfaro: ...to bring in witnesses that would help support these. And my interaction with the counselors, my part has always been very clear and the urgency of the need to provide accommodations has always been communicated well.

Ms. Gausepohl-White: Well that's great to hear.

Council Chair Furfaro: On that note...

Ms. Yukimura: I have one more question about that.

Council Chair Furfaro: Okay, well let me state what I'm going to state. I'm going to let her have another question, but I do know you're on a time limit. If there are no other questions from any other members, I'm going to let Council Vice-Chair Yukimura have one more question for you, Diana.

Ms. Yukimura: Just as a follow up to actually Council Chair's focus, how are we doing with victims who are visitors?

Ms. Gausepohl-White: Well like for example just today, I'm working with Deputy Prosecuting Attorney Becky Vogt, who has a property crime case involving two defendants and there are probably five or six victims who were visitors. The incidences occurred over about a week period. I thought she understood very well what the issues and concerns were and wanted to make contact early on to make sure we could coordinate this and there is like 20 witnesses, five or six are from the mainland and the others are local. I feel like that's a really good example of how we work well. You know, the clerk is there to support Becky in what she needs, to issue subpoenas. The investigators, we have the process server and investigator, they're there to serve the local witnesses and I'm there to contact the visitors to see if they're willing to come back and provide whatever service that I can and say, you know, to just validate that we realize you probably saved a long time to come to your dream vacation here on Kaua'i and we're so sad that this happened to you. It's unfortunate. I think that they deserve to hear at least we're sorry that this happened and we're concerned about it and we don't take it lightly, we're trying to hold them accountable. In that instance, that works really well. I can't really speak to the other kinds of cases because I normally don't get those kind of cases.

Ms. Yukimura: So your division doesn't track how many requests or victims are visitors and how many we're able to help?

Ms. Gausepohl-White: I think you would need to ask whoever is responsible for providing performance reports or for policies and procedures. There was a time that the victim witness program used the case management system that did identify lots of things, whether the incident happened at school because we were seeing a trend going up, that there's a lot of...and not just students to teachers, but

teachers acting inappropriately committing crimes against coworkers, students. We were interested in trying to be as proactive as possible. The only way to do that is to identify the issues and the problems. So we tracked how many cases occurred at school. Also, I don't...actually you know what, I'm going to backtrack. Based on the performance reports, an evaluation was done to look at what is important, what should we be looking at. And sometimes those issues were identified in a victim witness coordinators meeting where all the directors met on a quarterly basis.

Ms. Yukimura: Are you talking statewide directors...

Ms. Gausepohl-White: Yes, statewide directors. And other times, they were just local. I mean we have different needs than Honolulu and Maui has different needs than we do. So we looked at what we can do for our people here, but we also participated in the statewide process that tried to identify needs...participated in needs assessments and trainings. There were four categories: elderly; visitors; immigrants, especially domestic violence victims who were being threatened to be deported if they reported the incident; and the disabled. So there was a time that that was part of what we looked at. I can't tell you what is happening. I can't say that that's not happening. I don't know. I'm just not involved in that.

Ms. Yukimura: Okay, so to your knowledge, is anybody from victim witness Kaua'i involved in that kind of statewide liaison and tracking.

Ms. Gausepohl-White: No.

Council Chair Furfaro: You don't know, but it could be being done is your answer.

Ms. Gausepohl-White: I believe her question was to my knowledge.

Council Chair Furfaro: To your knowledge, yes, okay.

Ms. Gausepohl-White: So to my knowledge the answer is no.

Council Chair Furfaro: So we'll save that question for when we call the prosecutor back up.

Ms. Yukimura: Right. And then performance reports, so to your knowledge then they're not done...they're not being done, performance reports at a county level.

Ms. Gausepohl-White: I believe that performance reports are done as dictated by the contract, and my understanding of the contract is that the victim witness assistance moneys that are State funded, part of the presentation where you saw the breakdown of advocacy, education and information, referrals, crime victims outreach, that is what is actually turned in to the Attorney General's Office. The monitor is Shaleigh Tice. We had an excellent relationship. Shaleigh was real concerned about making sure that these federal moneys were being spent to its fullest, that we were serving who we were serving. I also think it's important to say that VOCA does not recognize witnesses. We do not report witnesses to VOCA. It's to the State. So that was a performance report that gets turned in twice a year, so from January to June and then July through December. At that time we're also expected to identify victims for mailings of satisfaction questionnaires so that we can get feedback on "How are we doing our job?" "Is there something we can do better?" The VOCA performance report is once a year and again I'm speaking when

I was involved. It was a federal fiscal year, so it was October 1 through September 30. Their types of services are defined very differently than the State, so you had to be very careful to not duplicate certain things. One service could be mean something for the State and something very different for VOCA. My understanding is yes, those are still being done. I don't think there would be any continued funding if they weren't being done.

(Councilmember Nakamura was noted excused at 4:46 p.m.)

Ms. Yukimura: Okay, so I appreciate the information about the framework. In terms of the State moneys, that's really what requires support for the witness function. Is that right? And VOCA is more for victim.

Ms. Gausepohl-White: VOCA is designed to serve victims and it's not just a direct service to victims. One thing that VOCA does do that the State doesn't is recognize others. So you could have a three-year-old sexual assault victim and you have grandma, and aunty, and mom, and dad. You have four other people that you're dealing with and providing services to. VOCA counts them as secondary victims. The State doesn't. The State just has one category of others served. They don't really care what you did for them, it's just that's the number. So there are different missions with the money and the State moneys have dwindled year after year after year. The thing is there's no restrictions in terms of we want you to do 10% of domestic violence, 10% of child abuse, 10% of murder and negligent homicide, and 10% of property. There are these underserved categories that you have to provide a certain number of your time to on servicing those types of victims and it doesn't matter if you had 100 witnesses in a murder trial, it's going to be the family of the decedent that is your victim.

Ms. Yukimura: Okay, is your position funded by the VOCA or what is...how is your...

Ms. Gausepohl-White: My position is county funded.

Ms. Yukimura: Okay, but then different funding goes to different positions, right?

Ms. Gausepohl-White: Yes, which then impacts the kind of cases that they get.

Ms. Yukimura: Right, all right, I think that's it. Thank you very much.

Council Chair Furfaro: Diana, on that note, I'm going to thank you for being here and giving us some overview of the role there and I'm going to go ahead and excuse you if there are no other questions from other members. Seeing none, thank you again very much for being here.

Ms. Gausepohl-White: Thank you.

Council Chair Furfaro: And I'll go on to other people that wanted to testify today and then I'll call the prosecutor's office back up after that.

Ms. Gausepohl-White: Thank you very much.

Council Chair Furfaro: Okay, I'm going to look to the audience. I have seven individuals who want to sign up and I'll start with Mr. Gary Nelson. And Mr. Nelson, you might have heard my comments earlier that certainly there are other avenues for issues that are personnel related other than this body, whether it's Marc Guyot or HGEA or any other forum or vehicle that you have to share that with, this body is not the personnel...our body is not a personnel function.

GARY NELSON, Law Clerk: I understand.

Council Chair Furfaro: So go ahead, sir, you have the floor.

Mr. Nelson: Thank you, Chair Furfaro, Councilmembers, for having me. Good afternoon, my name is Gary Nelson and I've come to share my thoughts regarding this agenda item. Restricted to the victim witness advocate aspect of this agenda item, to which I have personal knowledge about and feel I can speak to sincerely and with authority. I began working at the Kaua'i Office of the Prosecuting Attorney as a law clerk on August 23, 2011, after graduating from UH Law School last May. I've always wanted to be a prosecuting attorney and that's my goal still and that's my only goal. Prior to taking this job, I had worked at the Honolulu Prosecutor's Office as a summer intern and legal extern doing law clerk work there for seven months. Because of my past experience in Honolulu and my current experience here at the Kaua'i Prosecutor's Office, I feel I am in a unique position to contrast the experiences and provide a measured perspective regarding the working conditions and environments of each and how victim witness advocates and attorneys interact, how cases are assigned and such. So far here my job as a law clerk has been chiefly the screening of incoming police reports to determine whether or not charges will be filed in a given case. My recommendations are then reviewed by either Shaylene Iseri-Carvalho or Jake Delaplane, who provide feedback on my work, point out any errors that I may have made, hopefully I don't make too many, and answer any questions that I have because I'm still learning and I pick their brains all the time every chance I get. This is how I've been receiving training for my eventual appointment as a deputy prosecuting attorney.

When I began, I screened mainly just petty misdemeanor and juvenile cases. But as I progressed and learned, I was assigned a wider variety of cases and I've screened cases including Class B and C felonies now. In order to do a thorough job of screening, it is often necessary for me to contact victims and witnesses to ask follow-up questions, to let the victim know of changes in the charging. On any given day, I personally screen between about 10 to 15 cases and contact between 5 and 10 victims or witnesses on cases of all types, fluctuating from day to day. Due to the volume of work at the prosecutor's office which is assigned to me, I routinely work afterhours, sometimes on weekends, as do most, if not all of the other prosecutors in our office and other law clerks as well, besides myself. I believe time is truly of the essence in our job.

Council Chair Furfaro: That is three minutes and I'll go ahead and give you your other three minutes, so just continue.

Mr. Nelson: Okay, thank you. If I waste time, I'm never going to get to go home. That's not going to make my wife very happy and she's also my boss. So for that reason I contact the victims and witnesses myself when I need to because their contact information is in the police reports and I know the questions I want to ask and I can get a sense of what the victim is thinking, how they feel about what happened, and can obtain the answers that I need immediately without having to go through any third party. It saves me a lot of time. If I were to use the Victim Witness Advocacy to do this for me and I have on some occasions, I must



first explain to them what I need them to ask the victim, what questions I have, which must sometimes be done in writing when there are multiple issues. So I have to write it out for them so that they don't miss anything because I want to be sure. And then I wait until they can complete my job request and relay the information back to me. While that's happening, the case sits. It's stuck and I can't progress.

So also, if I do it that way, I don't get a sense of the victim's mood and demeanor and that's also important because we're gauging their attitude, how they feel about the case. It's important for us to know that. It's important for the next prosecutor that I'm going to pass it on to to know that.

So personally, using Victim Witness Advocates, in my experience, just screening cases, does not make it easier. It makes it harder and more time consuming for me.

As I mentioned earlier, I worked for seven months in the Honolulu Prosecutor's Office. Under Peter Carlisle, I felt the Honolulu Prosecutor's Office was well funded, highly organized and very effective. They employed over 110 attorneys and a dozen law clerks. And they had between 10 and 12 victim witness advocates at any given time during those seven months. That is roughly one victim witness advocate for every 10 attorneys and/or law clerks, which is about a 10% ratio and that worked really well for them. While Ms. Erin Wilson, who spoke last week was working at the Kaua'i Prosecutor's Office, we employed 11 fulltime attorneys, one part-time attorney, and one law clerk, that's myself, but we also employed four victim witness advocates, and that's a 40% ratio. That ratio is disproportionate to other prosecutors' offices in my experience. Now, there are instances when a victim witness counselor is necessary, such as in domestic abuse, sex assaults, pretrial consults, cases involving...

Council Chair Furfaro: Go ahead, summarize.

Mr. Nelson: Thank you. Cases involving child victims. I've never been dissatisfied with the work product of any victim witness counselor that I've used. I simply do not find the need to use them very much in my job. I want to make clear that I only speak for myself and from my own personal experience as a law clerk. And I don't presume to imply that my experience is indicative of any of the other employees at the office that I work. I just simply thought that my viewpoint might help the council with its evaluation of this matter.

Council Chair Furfaro: Thank you very much, Gary. Let me see if there are any questions for you. Any questions? Vice-Chair Yukimura.

Ms. Yukimura: Yes, so this ratio you talk about, was that number of positions or number of prosecutors in the office at that time.

Mr. Nelson: In the office at that time.

Ms. Yukimura: Okay, so if there were vacancies, they weren't being counted in the ratio?

Mr. Nelson: No, I think there may have been...I was actually there as Mr. Carlisle was leaving and...

Ms. Yukimura: Oh no, I'm talking about the Kaua'i Office.

Mr. Nelson: Oh, our office, oh, yeah, that's how many were there.

Ms. Yukimura: Bodies?

Mr. Nelson: Bodies, yes.

Ms. Yukimura: Not positions?

Mr. Nelson: Not positions.

Ms. Yukimura: How many positions are there?

Mr. Nelson: You're asking the wrong person.

Ms. Yukimura: Okay.

Council Chair Furfaro: We'll save that question when the prosecutor comes back up.

Ms. Yukimura: Well, it's just that you used it in your factual, so I was just trying to understand.

Mr. Nelson: I can tell you how many are in there, but I can't tell you how many positions are available. I can tell you how many bodies there are.

Ms. Yukimura: Right, so the ratio is impacted by the number of vacancies there might be, right?

Mr. Nelson: I'm just telling you the ratio between how many victim witness advocates were working there and how many lawyers and law clerks were working there, nothing more.

Ms. Yukimura: Right, thank you, that's what I wanted clarified.

Mr. Nelson: Okay.

Ms. Yukimura: Thank you.

Council Chair Furfaro: Any more questions for Gary? You know Gary, I do want to say that it's sometimes very hard to quantify things in Honolulu with 1,100,000 people.

Mr. Nelson: Oh, I understand.

Council Chair Furfaro: I'll give you an example, on the Waianae Coast we have two fire departments, two fire departments on the leeward coast of which I think there's 280,000 residents.

Mr. Nelson: Right.

Council Chair Furfaro: We have 64,000 residents. We have nine fire departments because of the area, the scope, and so forth, which also supports ambulance service. You know, it's sometimes hard and I'm just sharing with Vice-Chair Yukimura too, for us to make those kind of comparisons because the ratios aren't necessarily the same.

Mr. Nelson: I understand.

Council Chair Furfaro: But I want to thank you for your testimony and I will ask Renie Judd next to come up.

Mr. Nelson: Thank you, sir, thanks all of you.

Council Chair Furfaro: Thank you very much.

Ms. Yukimura: Thank you.

RENIE JUDD, Supervising Legal Clerk: Good afternoon, my name is Renie Judd. I'm the supervising legal clerk at the prosecutor's office. I've been there for 23 years. I wanted to take the opportunity to comment on the letter that was written by Ms. Erin Wilson to the council. I just wanted to say offended, surprised and disappointed are some of the words I used to describe how I felt when I read Ms. Wilson's letter, especially when she indicates that victim witness services have been compromised or that our victim witness program no longer had a leader in victim witness services. I found it offensive coming from someone who's been employed for such a short time there.

First of all, Shaylene's leadership is apparent every day at our office. Secondly, victims are serviced by all staff members throughout the workday. Shaylene's passion to help and represent victims is clearly understood by all at the OPA. Never would any victim's services be compromised for any reason. Initiatives to help and guide victims or any other person of the public is an important role that the staff takes at the office. We also understand the importance of servicing members of our community. In one part of Ms. Wilson's letter she states that "I quickly learned at the OPA that nothing could be done without the direct approval and oversight of the elected prosecutor." She also insinuates that communication is restricted with other agencies. This is untrue and misleading. The OPA would not function for a day if such conditions would occur. In fact, the success of our daily operations heavily depends on the staff members being able to operate independently with the exception of staff members who are in training. Our daily operations require emailing, which is used largely as a source of communication within the office and with other agencies.

I have worked in four different administrations and I can say that this administration has been extremely successful in all aspects simply because of accountability and hard work is expected of all staff members.

Council Chair Furfaro: Thank you, Renie. Are there any questions of Renie?

Mr. Rapozo: I have a question.

Council Chair Furfaro: Go right ahead, Mr. Rapozo.

Mr. Rapozo: And I mean no disrespect to Mr. Nelson. I didn't ask you any questions because you've been there for such a short time. But I didn't realize you were at the prosecutor's office for 23 years. I thought you were about 23 years old. I'm only going to ask you one question. Has the victim witness services at the prosecutor's office been compromised because of the change to the vertical prosecution? Has the services to our victims and our witnesses been compromised?

Ms. Judd: No, it hasn't. Actually, I think it works better with vertical prosecution because the attorneys, you know...a lot of times even before charging their cases, they make their calls. They speak to the victims, they'll speak to the witnesses. So they end up having actually, I think, maybe faster contact with the actual person that they'd really like to speak with, which is the attorneys.

Mr. Rapozo: Thank you, your comments are very well taken. Again, 23 years, four different administrations, and my concern is always the services to victims and witnesses. And I appreciate your candid testimony.

Ms. Judd: Thank you.

Ms. Yukimura: I have a question.

Council Chair Furfaro: Renie, we have other questions for you.

Ms. Yukimura: I, too, think that the vertical prosecution or organization might be the best way to go. I'm not experienced in this area, but it makes sense to me. My question is who do you see as the leader of the victim witness?

Ms. Judd: I see the leader of our victim witness as Shaylene. She is the leader of the office. Her budget will cover all aspects of our office. It'll take care of all areas of our office, so that is who I see as our leader.

Ms. Yukimura: Okay, thank you.

Council Chair Furfaro: And I have one for you. You made reference to Ms. Wilson's testimony which was entered for the record. I just want to say that is her right even as she exits the island. But also I do want to say that we are going to, as Shaylene indicated, redact some names on the testimony that was sent to the members confidentially. Until such time, I'll keep it confidential. When the prosecutor chooses to indicate to us that there would be a redaction of some names and so forth, that letter will be entered into the record at her request. But Erin Wilson made no statement to us that she wanted her testimony to be confidential, so it was entered in the record, of which she is entitled to. Okay and thank you very much for your many years of service, 23 years, congratulations. May I call up Julie Anne Demond. Is Julie here?

Ms. Iseri-Carvalho: Mr. Chair, she had been here from 2 o'clock and had to attend to childcare needs, but I believe she provided her written testimony.

Council Chair Furfaro: I believe we do have her written testimony.

Ms. Iseri-Carvalho: Yes and so that would be made a part of the record.

Council Chair Furfaro: It will be.

Ms. Iseri-Carvalho: Thank you.

Mr. Rapozo: I don't have a copy of that. Does someone have the...

Council Chair Furfaro: I'm looking to you, Pua. Did that name come up on any written testimony? If not, does your deputy have a copy of Julie's testimony?

Ms. Iseri-Carvalho: I know she had it. I saw her holding it, but what I will do is...

Council Chair Furfaro: Okay, well our record will be open until tomorrow. So she chose to testify and we'll accept it as such because she did sign up.

Ms. Iseri-Carvalho: Yes, thank you, Mr. Chair. The next person?

Council Chair Furfaro: Yes, the next person I have is Michelle Jacintho.

MICHELLE JACINTHO, Law Office Assistant: Hello, my name is Michelle Jacintho and I'm a law office assistant for the Office of the Prosecuting Attorney. In light of what you had mentioned, my testimony is basically the letter that was received from Erin Wilson. Both Erin and I were hired at the Office of the Prosecuting Attorney right about the same time in early August of 2011 and I was initially hired as a receptionist and she was a victim witness counselor. After reading her letter I was shocked to see the numerous false allegations about our office and I felt highly offended that she operated with the mindset that only the victim witness counselors could and would service our victims. I came into this position with over 25 years of customer service experience and feel that a good majority of my time was spent listening and servicing our customers, victims and members of our community. Being newly hired, it confuses me as to how she had the time to gather so much information and false statistics. And from my own experience with learning new job duties and figuring out the day-to-day procedures of the office, there is little time to focus on such negative findings in and around the office. In closing, I just wanted to thank you for allowing us the time to voice our concerns on this troubling situation that she has brought forward.

Council Chair Furfaro: Thank you. Let me see if there are any questions for you. I do want to let you know that it is our efforts here to take personal testimony as it relates to items on the agenda and I do want you to know I can certainly recognize your disappointment, but it is an entitlement that she had. And for the record, I should disclose that on my own initiative I did meet with her and just wanted to get a better insight of some of her concerns, but thank you for your testimony.

Ms. Jacintho: Thank you.

Council Chair Furfaro: Adeline Refamonte?

Ms. Iseri-Carvalho: Ms. Refamonte also had to leave. She had been here from 2 o'clock. I do have her written testimony here. We can make that a part of the public testimony as she has given us permission to do that.

Council Chair Furfaro: Okay. May I ask Lawrence Jordan?

Ms. Iseri-Carvalho: Mr. Jordan will be providing his written testimony at a later time and feels that the voices of the office share the same that he would offer and therefore will be declining at this time to share that in person but will provide something in writing.

Council Chair Furfaro: Okay, there is a time period for you to do that, so we'll leave it up to you, sir. And then we have, is that Don Costa?

Ms. Iseri-Carvalho: Oh, Deann, I believe she turned in...Mr. Chair, she did leave and left her written testimony. She has also given permission for her testimony to be public.

Council Chair Furfaro: Okay, thank you. Before I call the prosecutor back, may I ask, "Is there anyone else in the audience that wishes to give testimony who has not signed up?" If not, Shaylene, may I ask you and your deputy to come up again? Before I do, I also want to make note we have written testimony submitted by Mr. Mickens. Do you have that as well? Just want to confirm that, thank you. Members, we did have a motion to receive this and a second, but before we close this item out, if you have questions for the prosecutor's office, I will allow that at this time.

Ms. Yukimura: The rules are still suspended, right?

Council Chair Furfaro: Yes, they're still suspended, the rules.

Ms. Yukimura: I do have some questions. May I go ahead?

Council Chair Furfaro: You have the floor.

Ms. Yukimura: Thank you. So thank you for your presentation. I'm sorry if you felt that it was an imposition, but we do do this with...we recently had the roads people come and do a mid-term report, and there was a report on the multi-use path and so...

Ms. Iseri-Carvalho: I totally understand. I was a councilmember before, so I totally understand.

Ms. Yukimura: Yes, I thought you would.

Ms. Iseri-Carvalho: The imposition was on requesting information that you already had and five years of information in three days.

Council Chair Furfaro: Okay, let me interject on this. I think I already summarized this question, but the prosecutor's office, in my opinion, is no different than the engineering department, public works, and so forth. And I think I made the point for the whole body. These are things that we're entitled to. So you have the floor, please move on.

Ms. Yukimura: And in fact we did do a research of our files and I still have not found a victim witness budget in and of itself which shows all the different grant sources and how they're used. So I would like to request that as a follow-up.

Ms. Iseri-Carvalho: Councilmember Yukimura, the structure of the office has changed and that was the vertical prosecution model. And the whole reason for that was because we felt that the victim witness program alone segregated themselves from the office and the rest of the functioning of the prosecutor's office. And so that organizational chart, which changed the operations of the office and integrated so that there was more comprehensive services available, was made at the budget presentation for three years now.

Ms. Yukimura: I have no dispute with that. What I'm asking for is a budget for the victim witness program that shows the different expenditures related to the services and the funding sources.

Ms. Iseri-Carvalho: I can tell you that our victim witness program no longer exists and that's why the organizational chart, it specifically puts victim witness under the prosecutor's office. The head of the victim witness program, the director, there is no director. And this was again approved by personnel three years ago. It came before this council in multiple budgets.

Ms. Yukimura: Was it approved...

Ms. Iseri-Carvalho: And so the information that you're asking to segregate out is something that Finance could probably do and we could probably do, but that's not how our operational budget works. It works as one agency.

Ms. Yukimura: Is this something that VOCA has approved?

Ms. Iseri-Carvalho: Yes. Every item that we have gone through has been provided to all of the grantors. They have approved and audited every information that we have provided to them. They have been aware of the budget modifications. They have approved all of the budget modifications.

Ms. Yukimura: Okay, so what housing does for us every budget session is it shows its different funding sources and how it goes into which programs and that's all I'm asking for.

Ms. Iseri-Carvalho: And we've provided that.

Ms. Yukimura: If you have...maybe we don't know what we're looking at, but we have looked for it and we don't have it. So if you would kindly provide it for us that would be most helpful.

Ms. Iseri-Carvalho: We have no problem in providing information that you already have.

Ms. Yukimura: In a format that shows how the victim witness moneys are being spent and so there are at least two sources, I presume. Well, actually there are three because county, you're still showing us how you're using county money for victim witness, right, so there are actually three sources that you would need to show us how it's being put together in the victim witness program.

Ms. Iseri-Carvalho: Which we already have and which we can do again.

Ms. Yukimura: Okay. I just want to see it separate from your regular budget. I mean don't send us your whole prosecuting attorney's budget because that doesn't show us what we would like to see.

Ms. Iseri-Carvalho: We have provided all the information that you have requested numerous times. We can provide it again.

Ms. Yukimura: Okay, all right. So you mentioned that an audit was conducted?

Ms. Iseri-Carvalho: The financial audit of all of the agencies that is required by the county council, they gave a report just a couple months ago.

Ms. Yukimura: Okay, you're talking about the single audit. Okay, all right, so we have a copy of that. Okay, so I wanted to ask you what the overall picture of the victim witness program is in your office and its mission and funding and staffing.

Ms. Iseri-Carvalho: I'd like to say again that the victim witness program in and of itself does not exist. It has not existed for three years because we have moved to the vertical prosecution system. And so each team consists of an attorney, a legal clerk, and a victim witness counselor.

Ms. Yukimura: Okay, I'm looking at your organizational chart.

Ms. Iseri-Carvalho: Of what year?

Ms. Yukimura: Of 11-14-11 and it shows a Victim Witness Counselor II with four positions. So it looks like you have a victim witness program.

Ms. Iseri-Carvalho: We don't have a victim witness program. They're not in and of itself. We have everything set up according to legal clerks and they have supervisors for legal clerks. We have a section for victim witness, but in the office the function of all of those departments integrate. And so within each vertical prosecution team you have a district court attorney...

Ms. Yukimura: That's very good, that's very good that it's integrated. But certainly you have a mission or a sub-mission with respect to victims and witnesses.

Mr. Delaplane: I think maybe to clarify, we're throwing around terms here, victim witness program. I think saying that because we have four victim witness counselors on the organizational chart that you're looking at, just because those positions appear on there and then saying oh, there must be a victim witness program, that's like saying we must have a legal clerk program or a prosecuting attorney program or a law office assistant program. We have different individuals with different responsibilities and duties in the office and again, they're all connected through this vertical prosecution model that Shaylene's implemented at the office. And so again, there is no separate and distinct legal clerk program, there is no separate and distinct deputy prosecuting attorney program.

Ms. Yukimura: Do you see as part of your mission, though, the addressing of victims, say visitors who have been victimized or even local residents who have been victimized, or is that not a mission that you presently own then?

Ms. Iseri-Carvalho: I have to say that has to be one of the most ridiculous statements that I have heard that we don't have a mission to care for victims. We explicitly stated what our mission was. I mean the clerks have come up and said what the mission was. Diana Gausepohl-White came up and said what the mission of the victim witness counselor is. We share all the same mission and that is to serve any and all victims that are involved in the criminal justice system.

Ms. Yukimura: Okay, so of the...

Ms. Iseri-Carvalho: Whether they are victims because they are visitors or whether they are victims because they are residents, they shouldn't be treated differently whether you're a visitor or a resident.



Ms. Yukimura: I'm not suggesting that you should treat them differently. I'm just trying to understand what your program is to address their needs. So if you say that there's any and all victims, that's your mission, then of all the victims that we've had this year who have been victims of crime, how many have you served? What is the total number of victims and how many have you served?

Mr. Delaplane: In our presentation I showed what our victim witness counselor numbers were, but I also mentioned that there are numerous victims that we can't put down on paper and I think that it's an important thing to note that we don't treat our victims like statistics and that's actually very offensive, to me, to think of them that way. Our victims in our cases, they are our family, they're our friends, they're our neighbors, they're our guests, they're our visitors.

Ms. Yukimura: Of course, so then you should want to serve their needs.

Mr. Delaplane: Absolutely.

Ms. Yukimura: So, I...

Council Chair Furfaro: You know, I'm going to take a moment here to tell all of you, let's take a deep breath. Okay, so Jake, you have the floor, finish your response before we get entangled in more dialogue.

Mr. Delaplane: Thank you, Mr. Chair. Again, we're not so interested in putting everybody in a box as far as okay, you are this type of victim and we're going to track stats on you because we need that number for next year's report or any of that. We're more focused on providing services to the individual victims.

Ms. Yukimura: That's what I'm asking about. So, you know, you show your felony case statistics of the total number of felonies, how many you've succeeded in getting convictions for. And all I'm asking is how are you measuring whether you're meeting your victims' needs?

Mr. Delaplane: There is no objective measure that you can really put on meeting a victim's needs in each individual case because cases vary so widely and because each individual victim requires a different level of service. For example, a domestic violence victim or a sexual assault victim, typically their needs are going to be much more intensive and require counseling, require a lot more things than say a victim of a burglary or a victim of some sort of property crime if your car is broken into. So there's no real measure that you can put on...okay, what is something that we can look at in both of these cases and say yes, their needs were met and to what extent were their needs met.

Ms. Yukimura: Well, Diana Gausepohl-White told about surveys that were becoming the kind of measuring stick of performance and customer satisfaction, which you know the mayor has been emphasizing, so that is one way. And the other way is, for example, just how many reports on visitors did you get and how many of them did you service?

Mr. Delaplane: Right and I think that the crimes against visitors and how that's handled, I think that that's a good stat for the police department to keep and the police department to keep track of because they can tailor their

enforcement needs to those different areas. As far as the prosecution goes, there is no tailoring that needs to be done to a visitor versus someone who's here and is local.

Ms. Yukimura: Anyway, so you don't have those statistics.

Mr. Delaplane: As far as visitor crime? No, we don't track that.

Ms. Yukimura: Number of visitors referred to your office and how many are served.

Mr. Delaplane: No, we do not track that statistic because again, we don't find that to have any bearing on how we're going to handle the next case that comes in.

Ms. Yukimura: You're talking about a court case?

Mr. Delaplane: Any case that comes into our office, we're going to handle it exactly how it should be handled depending on the case. So we're going to look at the case, we're going to assess the needs of the victims, we're going to assess the needs of the witnesses, and we're going to proceed accordingly on that case. But again, it's not all going to be the same and it's not something that you can put a cookie cutter stamp onto every single time.

Ms. Iseri-Carvalho: Again, I want to add, too, that statistics here really aren't all that important. What is important is to ensure that you have employees who provide direct services to victims, and if that is what they're doing with respect to how much, I can tell you all of our state contracts, we have a survey that goes out to every victim. Julie does that on every case that comes into our office. Surveys, I can tell you especially a lot of the domestic violence cases, they never get returned. But all of the surveys that come in...from our office, we send out surveys on every case and that can be...it's been in...as long as I've been there, it's probably been in longer...before I was there. So there are ways to track, but are those numbers providing the kind of information that you want when you're not getting people returning those things especially on the sex assault, domestic violence types of cases? So you're getting a skewed view of people and it's a very small percentage of the surveys that we send out that are actually returned and those numbers actually can be provided to you because we provide those survey information back to the grantors.

Ms. Yukimura: Okay, well please provide that information then. So yes, in fact, can you please provide all your performance reports for the last three years that you have sent to your grantors because those are part of your...

Ms. Iseri-Carvalho: That won't be a problem.

Ms. Yukimura: Okay, great, thank you. You know, Ms. Wilson has indicated that she was laid off for lack of work and that signals to me workload. Now, if that is not the correct reason she was laid off and it's not a matter of not having enough work for victim witness counselors, then you're saying that...I mean was her position eliminated for lack of work?

Ms. Iseri-Carvalho: At this time there is something pending before personnel, so it would be inappropriate for us to answer that in light of the fact that there's something current that we are responding to with respect to this issue, and we believe that this does invade into the personnel issue that was prohibited from us going into by Chair Furfaro.

Ms. Yukimura: Okay, then let me ask this, you have in your organizational chart four positions for victim witness and do you have enough work in the arena of victim witness to support four positions?

Council Chair Furfaro: Before you answer that, let me say again my earlier statement. Let me pose the questions this way because I don't want to indulge into personnel matters right now that may or may not reflect any legal work that needs to be done on the part of the county of Kaua'i. This particular individual, was she still in the probationary period allowed by the county?

Ms. Iseri-Carvalho: Yes.

Council Chair Furfaro: This position that the person had is still open, vacant, and funded for in the current budget?

Ms. Iseri-Carvalho: Yes.

Council Chair Furfaro: Any other questions along the personnel matter, I'll consult with the county attorney before I ask you to respond.

Ms. Yukimura: I'm confused now because...

Council Chair Furfaro: Here, it's not confusing. What the prosecutor does in handling their people in a probationary period is basically the prosecutor's choice, no different than the county clerk here. And that then becomes a personnel matter if there is a grievance that ends up to reinstatement or past compensation and so forth, and that cannot be a topic of this discussion right now. So I'll ask the two questions again of the prosecutor's office. The position that this individual had, is it still in your budget and vacant so that you need four people? Yea or nay?

Ms. Iseri-Carvalho: So that we need four people?

Council Chair Furfaro: Yeah or you use four people.

Ms. Iseri-Carvalho: No.

Council Chair Furfaro: No, but is the position still in the budget?

Ms. Iseri-Carvalho: As of right now it is in the budget.

Council Chair Furfaro: And that is your choice.

Ms. Iseri-Carvalho: Right.

Council Chair Furfaro: And the second piece is was she in fact released inside her probationary period?

Ms. Iseri-Carvalho: Oh, I'm sorry, we need to clarify. Because we're talking about two different budgets because that position was a grant position, Chair Furfaro, so it doesn't appear on our county budget.

Council Chair Furfaro: Right, but you still have the vacancy in the grant.

Ms. Iseri-Carvalho: We have the number available, yes.

Council Chair Furfaro: Okay, and this individual was inside of the probationary period.

Ms. Iseri-Carvalho: Yes.

Council Chair Furfaro: And there are outstanding issues of a personnel matter that may or may not require involvement from the county attorney.

Ms. Iseri-Carvalho: Yes, based on especially the letter that she provided here.

Council Chair Furfaro: Okay, so if we pursue this line of questioning, I will repost an item in executive session, but I will not permit us to continue to have dialogue in the open on a personnel matter.

Ms. Yukimura: Okay. I have a question. Chair?

Council Chair Furfaro: Yes, you still have the floor, go ahead.

Ms. Yukimura: All right, thank you. So the position that was vacated is being funded by grant moneys or council?

Mr. Delaplane: Yes.

Ms. Iseri-Carvalho: Yes.

Ms. Yukimura: VOCA mon...

Ms. Iseri-Carvalho: All grant, all grant. Jamie is our grant coordinator. So if you want to pose questions to her regarding that grant aspect, she would be the one most familiar.

Ms. Yukimura: Okay, well if you don't have the answer then we'll ask her. So that position that was vacated by Ms. Wilson is open presently and is funded by grants, by the VOCA grant?

Mr. Delaplane: Saying that it's funded under a grant means that there's some sort of expenditure that's going out on the grant now. We have the position open, it is a grant position. I think saying that it's funded by the grant right now is a weird question.

Ms. Yukimura: Well when you hire somebody, what moneys will you use to fund that position?

Mr. Delaplane: If we were to fill that position it would be grant money because it is a grant position.

Ms. Yukimura: And would it be VOCA moneys?

Mr. Delaplane: I believe it would, yes.

Ms. Yukimura: Okay, all right, thank you very much.

Council Chair Furfaro: Thank you Vice Chair. And I want to follow up on two questions that you...you know I'm kind of close to all of our audits and so forth. I just want to make note that in our last audit for your department and the previous year, we had two minor findings that dealt with ensuring some accounting records are accurate and more all inclusive, and that the office also needed to submit the required reports in a more timely manner for, I guess, grant money related to the prosecutor's office that was reported in 2010. I'm looking at the 2011 that indicates that both were accomplished and that there were no new findings?

Ms. Iseri-Carvalho: That's correct. That's what we were informed of as well by the Mayor's Office, that all of the audit that they had done on our office had come back perfect, that there were no issues that were outstanding.

Council Chair Furfaro: Okay, I just wanted those two items. It said it was accomplished and you, in fact, can verify it was accomplished.

Ms. Iseri-Carvalho: Yes.

Council Chair Furfaro: Thank you. Vice Chair, go ahead.

Ms. Yukimura: I would like to move now to...unless somebody else has other victim witness questions?

Mr. Rapozo: I do if I could get recognized.

Ms. Yukimura: Okay then...

Council Chair Furfaro: Well, if you would yield the floor, we'll let someone else...

Ms. Yukimura: Please go ahead because my other questions are on the more general topic.

Council Chair Furfaro: Mr. Rapozo, you have the floor.

Mr. Rapozo: I just have a question because I think some of the viewers and maybe the public might get concerned and I hope...is Leo still here? Oh Leo, you're still here. Because I think the terminology of Victim Witness Program is quite confusing, and obviously I had the benefit of working at the office so. At one point there was a Victim Witness Program or more appropriately called the Victim Witness Department or branch or whatever that had...it was one of its own. And from what I'm reading in your vertical prosecution, you dismantled that and—what is that word—integrated the Victim Witness Counselors into a new scheme that basically comes under you. Basically the Victim Witness Counselors gets assigned the cases by yourself or by the attorneys versus a Victim Witness Director or Supervisor or whatever they're called. So in a sense of how it used to be where we had a Victim Witness Program that no longer exists. And in fact Victim Witness Services are still being provided, just in a different method of delivery.

Ms. Iseri-Carvalho: In a much more efficient method.

Mr. Rapozo: Well according to Renie Judd, I value her testimony because obviously she's been there a long time. So I just wanted to make sure I understood it correctly that in fact the Victim Witness Services are still being provided but just in a different method.

Ms. Carvalho: Yes and if I could clarify because we have the vertical prosecution model and we have specialized units, as Jake had spoken to earlier about the complex type of cases when you have a DUI or when you have a DNA forensic type case or when you have a multiple white collar type of case, all of those are done by attorneys that are skilled in that area and they go to trainings to get specialized in that type of area. Within that one team you have a legal clerk who also specializes in filing the type of documents for that type of case and so there are a lot of motions, there are a lot of hearings with respect to evidentiary issues. So that clerk is specialized in handling that type of complexity based on the type of case. In any type, when you have an illness and somebody says that you have cancer, you don't go to your ER doctor to say hey, can you tell me if I'm doing good because somebody else told me that I had cancer. You go to somebody who specialized in that area. Likewise when a victim comes in, they don't get assigned to any attorney. They get assigned to the best attorney who handles that kind of cases day in and day out so they practice them on a volume, so you're talking about the proper attorney having a hundred cases. Well that attorney's case means that they're very specialized in that area, the legal clerk is very specialized in that area, and the victim witness counselor is also specialized in that area, that they become more efficient because especially in the property crimes arena, you have these white collar cases where there are multiple instances of forgeries, where there are multiple instances of the amount of checks that have been done, and restitution that needs to be done. So all of those require a certain level of expertise and it's more efficient to have somebody to handle those kind of volume of cases in that particular area as opposed to okay, you get one white collar case that's 200 counts, you get another embezzlement case that's 50 counts, you get another one that's... and you split them across the board. There is no specialization. They would utilize so much more of their time had they had to deal with all these different types of cases all at one time because of the volume and the limited amount of attorneys we have. And so it is a team and I know there was something that was brought up whether or not to Ms. Gausepohl-White whether or not there were meetings. Victim Witness Counselors can have meetings all the time. They can consult with each other all the time, but I can tell you that they do have every month a meeting, what we call team meetings, where the attorney, the legal clerk and the victim witness counselor assigned to that case meet and discuss all of the types of cases that are involved in their specialized unit. Not only is this very effective, it also helps when we have to do reports to the various grantors because of two...right now we still have two attorneys that are partially funded by grant, and they require a certain level of statistics, and those statistics we already provide because it's required, but not the kind of statistics that Councilmember Yukimura is talking about because that is not required by the federal government, it's not required by the State and it's not required by the county for funding. We have to put our resources in the best use possible because we only have so much hours in a day to work. And so when we have these specialized units, like I said, you can see the amount of efficiency rate, the amount of volume that has increased, but the less time that we use to handle these cases because the persons that are part of that unit become specialized.

Mr. Rapozo: Well I would guess that would be part of the reason for the successful conviction rates. I can remember a time back in the early 1980s when I was on the police force and throughout the process of the trial, from the time they were arrested to the time you showed up for trial and depending on which court you were sent to, you would get a different attorney, a different prosecutor.

It's quite challenging when you report to your attorney at court as a cop and you know I just got the file so hang tight let me go through it so I can get you some questions as opposed to having an attorney that is with that case from start to end. So I see the value and appreciate that and I understand too that it's quite common throughout the country, vertical prosecution, as I have done some research and it's pretty common where you wonder, man, how come we didn't do this long ago. Thank you.

Ms. Yukimura: I have one follow-up question.

Council Chair Furfaro: Yeah, if you have another question, let me check if other members have a question and I hope to bring Jamie up after the prosecutors. Oh, I'm sorry my apologies. So bring me Mr. Bynum's clothespin and string, and I'll be okay. You have the floor, Vice Chair.

Ms. Yukimura: Thank you. So I can see the efficiencies that can be created with vertical prosecution in terms of handling the case and getting it a good conviction and so forth, but I'm not so sure that the victims' needs are being met and I have these VOCA guidelines here that I'm looking at and I know that Ms. Gausepohl-White said that for VOCA the moneys are not supposed to be used for the witness part but more for the victim part. So there is a difference, right, between the victims' needs and the role of the victim as a witness?

Mr. Delaplane: I would say that there's not and they're interwoven. They're absolutely related and you can't pick those things apart and say one is different from the other because it's all related, and there are different issues that affect people's personal lives or issues that affect a person as a witness and guess what? Those are the same issues. They affect the person in their home life and as a witness. So there's no extracting those things and calling it two different animals.

Ms. Yukimura: Okay, so have either of you been trained in victim witness?

Ms. Iseri-Carvalho: Absolutely, we attend trainings all the time. I attend the statewide meetings for all of the victim witness advocates. I can tell you and you can read in...I believe there is testimony by Cyndie Johnson, who was the Administrative Officer until she retired on December 31, that prior to I coming into office, the Kaua'i Prosecuting Attorney's office for two years did not send a representative to the statewide meeting, for two years.

Mr. Delaplane: I think another example of that is we're both certified in forensic child interviews. So interviewing children that are victims of sexual assault, we've both been through the formal training that all the police officers that are certified go through. So we attend those specialized trainings that involve counseling and dealing with victims that have been through extremely traumatic experiences.

Ms. Yukimura: That's good and I'm glad that you do attend those meetings. My understanding was that Diana Gausepohl-White used to attend those meetings.

Ms. Carvalho: She had not attended for two years.

Ms. Yukimura: Okay, all right, well it would be important to be tied into that network I would think.

Ms. Carvalho: And I believe that there was actually an agreement that there was nobody that attended for two years. There was an agreement that she had because she could not fly off island or something of that nature. That's what I was told by Ms. Johnson. And so there was no replacement that was put in place. Kaua'i victims were absolutely not getting served at all based on the state level of the coordinated meetings because there was no appearance by any victim witness counselor for two years.

Ms. Yukimura: Okay, I may want to ask Diana Gausepohl-White to come up later, but we should perhaps go on first to the other larger issue.

Council Chair Furfaro: The larger issue we've been discussing the whole time I think, but...

Ms. Yukimura: Well I have some questions about the PowerPoint.

Council Chair Furfaro: You have some particular questions from the PowerPoint? Ask them now.

Ms. Yukimura: Okay.

Council Chair Furfaro: Okay, because I don't want to be skipping back and forth. I have one question dealing with the grant writer for the department and let's finish with the prosecutor and the deputy prosecutor.

Ms. Yukimura: Okay, thank you.

Council Chair Furfaro: You have the floor.

Ms. Yukimura: Yes, so on your slide 6 or page 6 of the hard copy, which is your conviction rate on property crime statistics.

Mr. Delaplane: I'm clicking as fast as I can.

Ms. Iseri-Carvalho: Right there, right there.

Ms. Yukimura: That's what you get for making really fancy PowerPoint slides. Okay, I am a bit puzzled about how you come up with the conviction rate of 99% when you have cases that were dismissed without prejudice at 24%?

Mr. Delaplane: Right. We're not considering those in the calculation for a conviction rate because those are cases that have not reached final disposition yet because they were dismissed without prejudice and can be re-brought and re-charged.

Ms. Yukimura: But they are still part of the crimes that happened within a certain time frame and I would think that that would have to be part of the base against which the others are measured, the other...you know, pleading guilty, guilty by trial, etc.

Ms. Iseri-Carvalho: The way that we track these cases are based on what we have supplied for the grant, and the grant does not allow us to consider dismissed without prejudice because it is not final, which means that in this dismissal without prejudice it can be two months later and this case can be re-filed and there will be a whole new case.



Ms. Yukimura: Right.

Ms. Carvalho: So what are you going to count it as? It's not dismissed.

Ms. Yukimura: It's a crime that happened.

Ms. Carvalho: It's counted as a crime that happens, it is.

Mr. Delaplane: But we're not calculating our crime that happened rates, we're calculating our conviction rates and we're using the calculation that is approved by our grantors, and so we're using the exact same calculation that we are required to use for that.

Ms. Carvalho: And these are the same calculations that were provided when the grant was applied for even before I came into office, and so under Craig's Administration when he applied for the grants on property crimes as well as career criminal. These numbers that we put up here are numbers that were actually set from Mr. De Costa's time as to how you compute it. So this is not something we created. It was something that existed before we got here.

Mr. Delaplane: Right and these types of calculations appear in both the annual reports in budgets from Mr. De Costa's administration as well as Mr. Soong's administration before Mr. De Costa.

Ms. Yukimura: Okay and where would we find the DUI statistics?

Mr. Delaplane: We didn't provide those in this presentation.

Ms. Carvalho: Well because the DUIs are misdemeanor cases. Well, actually they're petty misdemeanor cases. We reported on the felony type cases.

Ms. Yukimura: They still...

Ms. Carvalho: But if you want those, they are readily accessible on the Judiciary website. It's the same place that we get our stats from.

Ms. Yukimura: Okay, but I would like to see them with these beautiful graphs?

Ms. Carvalho: We can put them in the pretty graphs, but the numbers are still the same. We get them from the same place, from the Judiciary.

Ms. Yukimura: Okay, but there is a tracking of DUI, though, cases as DUI cases?

Mr. Delaplane: Yes.

Ms. Carvalho: Yes.

Ms. Yukimura: Okay. Yeah, if you can provide that along with the performance reports and the other things we've requested.

Ms. Carvalho: And like I said you can readily access them yourself on the Judiciary website.

Ms. Yukimura: All right, thank you very much.

Council Chair Furfaro: Mr. Rapozo, you have the floor.

Mr. Rapozo: Are DUIs reportable to your victim witness program?

Ms. Carvalho: No.

Ms Yukimura: Now we're talking general Prosecutor's Office.

Mr. Rapozo: Well, I just wondered where it falls in the posting that's all because again, I don't want to seem like I'm trying to get out of here, but I'm trying to get out of here. It's late and if you want to have a discussion on the general prosecution of crime, we can do that at another time. But today is victim witness and I don't think DUIs fall within the victim witness grant.

Ms. Yukimura: Okay, it was my understanding that there's two parts, the Prosecutor's Office and Victim Witness.

Mr. Rapozo: I guess I have the wrong agenda, I don't know.

Ms. Yukimura: I'm done.

Council Chair Furfaro: Councilmember Yukimura, are you wanting the floor again?

Ms. Yukimura: No, I'm done.

Council Chair Furfaro: You're finished, okay. Mr. Rapozo did you...

Mr. Rapozo: That was it. I was just trying to stick to the agenda.

Council Chair Furfaro: Well, let me make those interpretations. That question and your point were well taken. Is there anyone else that has any more questions before I have for the prosecutor? No? You have any more questions?

Ms. Yukimura: No, thank you.

Council Chair Furfaro: No, I'm not finished.

Ms. Iseri-Carvalho: You wanted Jamie? Oh, not yet?

Council Chair Furfaro: I haven't called her up yet. So let me have a better understanding of this. We have 24% dismissed without prejudice and so for the public, as we know, I would like you to give me a better understanding of dismissed without prejudice because what you're basically saying is those cases, as with the past prosecutor, they actually get parked, they get parked over here.

Ms. Iseri-Carvalho: Temporarily.

Council Chair Furfaro: But you're only reporting to us what gets prosecuted because they're not parked.

Mr. Delaplane: Right.

Council Chair Furfaro: And some of those issues could be from not having enough time? There's a court clock that's going on?

Ms. Carvalho: Right, the Rule 48, we've talked about Rule 48. We've talked about especially in the property crimes when we have car break-ins, a lot of those people are visitors, they don't want to return back to Kaua'i to testify or face the people that have broken into their hotel rooms. So that also allows for some of the numbers that are contained in this dismissed without prejudice.

Council Chair Furfaro: So that could mean at that particular point in time that because nobody will come back and testify there's a lack of evidence?

Ms. Carvalho: Sometimes there may be. There may be a lack of latents, fingerprints, things like that depending upon the area where the crime was committed. There may have been multiple people that had handled the stolen item where the fingerprints, again, weren't able to get lifted, just a whole variety of reasons why.

Mr. Delaplane: One that we see quite often, too, is sometimes we'll take a case in from KPD, go ahead and charge it and proceed, and then later we find out there are many more charges that need to be charged and actually there are quite a few more crimes that need to be charged, so we would dismiss those without prejudice. I think statistically the reason you wouldn't count them and the reason it wouldn't appear in here is because it doesn't have a final disposition and you have the risk of double counting cases, right, because in the same year you may have a case dismissed without prejudice and then you also get a conviction on that case or later on when it's re-opened.

Council Chair Furfaro: Understood.

Mr. Delaplane: And so it really wouldn't make sense to count those in the rate because, again, you run into that problem of double counting.

Council Chair Furfaro: And they could also reflect a procedural error?

Ms. Iseri-Carvalho: Yes, most definitely.

Council Chair Furfaro: Okay. So I'm trying to find this out, how you calculate this because I can relate to it in a hotel.

Mr. Delaplane: Right.

Council Chair Furfaro: If you have a 300-room hotel and 30 rooms are out of order, you don't count them as available to be occupied.

Mr. Delaplane: Right.

Council Chair Furfaro: Your available rooms then is only 270.

Ms. Carvalho: That is an excellent analogy. It's exactly that way.

Council Chair Furfaro: But I also want to share with you my first blush at this. If you have a hotel that has more than 10% of the rooms out of order, that's a high number. We have 24% of our cases in this kind of limbo? To me, that's a high number.

Mr. Delaplane: Right and again it's not a permanent limbo, not necessarily for every case and a lot of times that turnaround is the next day. We dismiss a case without prejudice one day as the other case is being filed.

Ms. Iseri-Carvalho: Yes.

Council Chair Furfaro: Okay. Well I'm glad to hear that because to me that is a high number.

Ms. Iseri-Carvalho: Well and then also what happens is because when a person gets arrested we have 48 hours to charge that person and so we charge the case, it comes up, we do a search warrant but the search warrant isn't completed, but we have to file a charge to hold that person in custody. So we file a charge and that's noted as filed, but then it comes back on the search warrant and the search warrant finds drugs, firearms, etc. Well, if we don't dismiss this case without prejudice, it will be double jeopardy if the person came in and plead guilty to it. So every episode that happens at the same time and we know about it, we have to dismiss the case, come back, and re-file charges on everything that occurred from that search or that incident. So it's actually not a very high number when you look at it. It's a very low number because of these kinds of judicial dynamics that are going on.

Mr. Delaplane: And also because of the way our judicial system is set up with a bifurcated court, you have a District Court and a Circuit Court. But if you don't go through the Grand Jury, all of your felonies are coming through District Court. So they are charged normally, you go through a preliminary hearing. It is absolutely standard procedure for us to charge something in District Court and then at the same time we may have a Grand Jury coming up that next week. We will present the case to the Grand Jury, get it indicted and then dismiss the District Court case without prejudice. So a large number of those cases...

Council Chair Furfaro: Well maybe at another time we can have a discussion on that, but I'm just telling you as a layman to me and I'm sorry I made that comparison with a hotel, you're only able to sell the available rooms. You're only able to prosecute the cases that don't find it to maybe a procedural issue which includes the 48-hour time capsule and so forth.

Mr. Delaplane: Right.

Council Chair Furfaro: So I just wanted to have a clearer understanding of that. We're going to be having to take a caption break in a few minutes and I would like to call up your grant writer, but I do want to say that Diane, in my perspective, she really hit it right on the nose when she saw her mission which was to serve the victim. To me that was a very clear mission statement, you know. IBM has a one-word mission statement. That mission statement is "To Think." And so I just want to let you know personally, I felt that was a really clear statement from her part. Now I would like to see if I can get your grant writer over here before we come up to the 6 o'clock break. Jasmine...

JAMIE CHONG, Grant Writer: Jamie.

Council Chair Furfaro: My apology. You know I want to just make sure I understand this process as someone who has led many nonprofits, whether it's Habitat or Salvation Army, when we apply for a grant from a service that is willing to earmark funds for us, it is often very clear on what their requirements are for us to get a grant. So that I'm clear, with the VOCA grant that we received, are there specifications within that grant that reference a must level of staffing?

Ms. Chong: No.

Council Chair Furfaro: None?

Ms. Chong: No.

Council Chair Furfaro: None of it?

Ms. Chong: A must level of staffing?

Council Chair Furfaro: Yes, it says you must hire X-amount of attorneys, you must have X-amount of counselors.

Ms. Chong: No.

Council Chair Furfaro: Is that in the terms of this grant?

Ms. Chong: No. With every grant...

Council Chair Furfaro: You have to introduce yourself, I'm sorry.

Ms. Chong: Jamie Chong, the Grant Coordinator for the OP's Office. With every grant, we apply and we do a budget. And with the budget, we have a budget narrative and explanation, and we do submit it to the council for approval and it goes to the grantor. They approve the budget and therefore we go along with the grant budget on expending the funds. We are allowed grant modifications. So if anytime the grant budget needs to be changed, we cannot change it unless we have...we can't just go out and buy a car if we don't have permission from the grantor.

Council Chair Furfaro: I understand. That's the whole reason I'm asking the question. Does the grant specify how many counselors you must have?

Ms. Chong: No.

Council Chair Furfaro: Does it specify how many deputy attorneys could be used for this?

Ms. Chong: No.

Council Chair Furfaro: It does not?

Ms. Chong: No.

Council Chair Furfaro: Okay, now Jamie, let me see if Vice Chair Yukimura had a question and I then need to correct my earlier statement that it wasn't like a staffing guide item that came across in the grant, it is a docket of money for certain accomplishments?

Ms. Iseri-Carvalho: Right, exactly.

Council Chair Furfaro: Okay, I understand that better, thank you. Vice Chair Yukimura.

Ms. Yukimura: Yes, thanks for that question, Chair. The moneys, however, as I understand it, they cannot be used to fund attorneys?

Ms. Chong: Yes, not for VOCA grants.

Ms. Yukimura: VOCA funds cannot be used to fund attorneys, right?

Ms. Chong: Correct.

Ms. Yukimura: Okay, all right.

Council Chair Furfaro: You have any more questions of Jamie?

Ms. Yukimura: Not of Jamie.

Council Chair Furfaro: Do you have any more questions, members, of Jamie? Jamie, thank you very much. Vice Chair Yukimura, we have at least three more minutes, so you have the floor.

Ms. Yukimura: If I may just ask Diana Gausepohl-White to come back for one last question?

Council Chair Furfaro: Is everybody finished with the Prosecutor? Thank you very much.

Ms. Yukimura: Thank you.

Council Chair Furfaro: Diana, if you would like to come up again, we would certainly appreciate it. BC, we're dealing with about three minutes before this break? Okay.

Ms. Yukimura: I just wondered if you could educate us about some of the history of the State liaison meetings and how that worked?

Ms. Gausepohl-White: You're talking about the victim witness coordinators meetings?

Ms. Yukimura: Yes.

Ms. Gausepohl-White: Yeah, so you're asking for some clarification on the history?

Ms. Yukimura: Yes.

Ms. Gausepohl-White: They're usually conducted quarterly and they rotate islands, so there were coordinators meetings that were hosted here on Kaua'i. Also there were meetings on the other islands. The VOCA money was a major topic that was discussed. People who attended other than the coordinators and directors were Pamela Ferguson-Brey, from the Crime Victim Compensation Commission, the FBI at one point was sending a representative, the postal service. It was a real

opportunity for county, state and federal agencies to come together and try to assess needs, talk about how much money was available, who would get it. There were certain grants like the SAVIN Program, the automated notification to victims. That was something that was...

Council Chair Furfaro: What is the name of that pro...

Ms. Gausepohl-White: It's the state of...SAVIN, I'm sorry.

Council Chair Furfaro: Oh, it's an acronym for...okay.

Ms. Gausepohl-White: State Automated Victim Information Notification. I believe that's the acronym. But it's a statewide system that allows victims and witnesses and actually anybody in the general public to register to be notified either by email or by phone when an offender is released or dies or escapes or whatever.

Council Chair Furfaro: Got it.

Ms. Gausepohl-White: It's an extremely important component. We tried to do the best we could by our victims before that system, but it's extremely important. That was borne out of those meetings. So those are the kinds of issues of statewide services that we could provide to victims.

Ms. Yukimura: Okay, so the prosecutor mentioned that two years before she came in or something there were no meetings or that we didn't participate. Is that...

Ms. Gausepohl-White: That's not an accurate statement.

Ms. Yukimura: Okay, so were you involved in those meetings?

Ms. Gausepohl-White: I was involved in some of the meetings and when I couldn't attend then usually Jennifer Arashiro attended.

Ms. Yukimura: Okay.

Ms. Gausepohl-White: I'm not going to justify or explain family constraints, things, you know, as far as travel that I don't think that this is what this is about. I'm going to speak to the fact that we were represented and if you wanted to find that out in an objective way you could ask the coordinators. You could talk to Pamela Ferguson-Brey. You can look into travel history. We had representation.

Ms. Yukimura: Okay, all right, thank you very much.

Ms. Gausepohl-White: You're welcome.

Council Chair Furfaro: Before we take a caption break, then we only have 20 minutes before we actually either have to break for dinner or call it a day and be done. I do want to say when you did travel, did you file a trip report or travel expense?

Ms. Gausepohl-White: No, my understanding of the travel process is it's the county's process. You have to submit an agenda. We would have the victim witness coordinator's meeting agenda, submit that to the appropriate person who would then do their thing, you know get the voucher, get the approval; it would get

routed through the county process. Obviously whoever went to those meetings would come back and we would have...and that is true we have data and grant meetings monthly. I have never attended a victim witness staff meeting that was designed and its function was to discuss issues, policies, needs of the victim witness program since Lori Wada left.

Council Chair Furfaro: Okay.

Ms. Yukimura: But you did probably have minutes at your meetings, minutes of your meetings?

Ms. Gausepohl-White: I don't know if there were any formal minutes that came out.

Ms. Yukimura: Okay.

Ms. Gausepohl-White: Because again we rotated. I mean obviously most of the meetings were held on O'ahu because most of the people who attended were from there. But Phyllis Shinno on the Big Island, Lena Lorenzo on Maui, Dennis Dunn is the Director for Honolulu, and I also want to point out that they are counties who use vertical prosecution and still have victim witness programs with a director, with someone who's in charge of the day-to-day operations of the program.

Council Chair Furfaro: Okay.

Ms. Yukimura: Thank you.

Council Chair Furfaro: I want to thank you again for your testimony today, but we are going to take a 10-minute caption break right now and what's that?

Ms. Yukimura: If we're done maybe we can end.

Council Chair Furfaro: Okay, well let's...

Mr. Rapozo: (Inaudible) the caption?

Council Chair Furfaro: How over, BC, are we on the caption if we try to wrap this up?

BC, Videographer: About 10 minutes. (Inaudible.)

Council Chair Furfaro: Okay then, we'll do that. You're the commander over there with the earset, so we'll take it from that. Diana, thank you very much.

Ms. Gausepohl-White: Thank you.

Council Chair Furfaro: Okay. Is there anyone else that wants to give testimony before I call this meeting back to order? Okay if not, we are back in session.

There being no objection, the meeting was called back to order.

Council Chair Furfaro: Members, we have a motion to receive and a second, and now it's time for some deliberation. So commentary from anyone? Sir, you have the floor.



Mr. Kualifi: Thank you Mr. Chair. I just wanted to thank the prosecutor, the deputy prosecutor, and all the staff for coming out and bringing us so much information and spending so much time with us. I'm just appreciative of the work that you do, and I'm very thrilled and impressed with the numbers you continue to show on your success rate with the convictions and all. Keep up the great work, keep doing what you do for our citizens. Thank you all.

Council Chair Furfaro: Okay, Vice Chair Yukimura.

Ms. Yukimura: I, too, want to thank the prosecutor and the deputy and staff and the public who spoke. This has been a very educational process and I look forward to receiving the additional information. I do want to say that I feel like there's been a shift in the philosophy of the victim witness program in the prosecutor's office. It's within certainly the prosecutor's discretion to do it. I worry a little bit about the...and maybe because I have a social work background, I worry a little bit about the actual care and comfort of the victim, and I hope that aspect will be paid attention to as well. Again thank you for the information and for the time.

Council Chair Furfaro: Okay, anyone else? Mr. Rapozo.

Mr. Rapozo: I, too, want to thank the prosecutor's office. I have concerns with the philosophies of the planning department, I have concerns with the philosophies of public works, and I have philosophy issues with parks. But you know, you department heads are tasked with running your department, and I can appreciate a lot of the questions and all of that, but I think it's a different world today and I think we've seen change in the planning department with Mike Dahilig. I mean completely changed some of the philosophies that we're so used to for so long and I gotta say that for the short time that I did work at the prosecutor's office, I gotta say that the victims' needs were met. You mentioned everybody gets involved and I can tell you as an investigator of that office, if no one was available, guess who went out? The investigator and I spent many hours babysitting victims, witnesses, taking them to lunch, spending money, my own money to buy lunch and babysit them until we could get an attorney back from court. I mean I think to say that the victims are not being addressed is a misstatement. They are being addressed, they are being addressed in a great way and unfortunately victims of crime are not very likely to submit a survey report after they just got robbed or burglarized. They don't want anything to do with it. They want to go back home, they want to forget about it, they want to move on, and that's unfortunate because if we could get those survey results from willing victims, I think we would see a much more clearer view. But I think we do a good job. I think we do a great job and I just want to encourage your office, your staff. I gotta say I mean our council staff works hard. I always used to say there's nobody that works harder than this council staff and the year and a half or two, whatever I worked at the prosecutor's office, I gotta say the same of your staff. Your people work hard, I mean they're here. What you guys have to do in a day really mirrors what our staff does here, and I think we appreciate that. It's tough, your jobs are tough and there are only so many hours in a day. Attorneys, I don't have as much compassion for them. You're working 70 hours a week, you're supposed to work 70 hours a week. You guys are attorneys, you guys make good money. But our clerks and our legal clerks and all of those people, thank you for your service, I really appreciate what you guys do. That's all I really have. I just wanted to say that. I just want people to understand out in the community that our victims do get serviced and I think we all know that as well, speaking to people in the streets. Thank you.

Council Chair Furfaro: Thank you. Mr. Chang, did you have anything to share before I speak?

Mr. Chang: Yeah, I just need to echo my fellow councilmembers. Thank you for taking the time. I know it was a long day and I know that everybody is busy. While you're here doing the presentation, I know your mind is thinking about this, that, that, that, that, and I just want to thank you folks. I think when we start our budget process, I think we have a lot more understanding of what your needs may be or what your office is really all about. So I just want to thank everybody and Jamie Chong, thank you for explaining the process as far as the grants are concerned. I actually wish that you didn't have to work so hard, especially over the holidays and over the weekends and what have you so. I think it's a statement with a little bit of mixed emotions when you say that you spend more time with your staff and staff members than the family because that's a lot of dedication and that's a lot of sacrifice. So we just want to thank you folks for your professionalism and dedication. Thank you, Mr. Chairman.

Council Chair Furfaro: Okay, very good. My comments are going to be very focused on organizational change. When you talk about changing the environment in an organization and so forth, the single most important thing that you can do is convey to people in the organization the reason for the change. Chances are if you're doing things the same way you were maybe five years ago, there is an opportunity to do things a little different. We're going through that here at the council over the last year and so forth. But I also want to say that this body, as a legislative body for the County of Kaua'i, does reserve the right to query operations across the board, not specific departments but any department. I just want to say, I thank everybody for today's piece. Organizational change is sometimes very difficult unless you understand it, but this council reserves its right to query any operating department in the County of Kaua'i. On that note, I want to thank the prosecutor's office for today and all the staff, but we are going to now vote, just a voice vote. All those in favor of receiving this item say, aye.

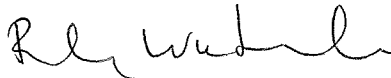
The motion to receive C 2012-08 for the record was then put, and unanimously carried.

Council Chair Furfaro: Thank you. Those that testified today, I want to thank you for your points, but this council is adjourned.

#### ADJOURNMENT.

There being no further business, the meeting was adjourned at 6:11 p.m.

Respectfully submitted,



RICKY WATANABE  
County Clerk

lc/wa